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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1929.

No. 559.

TRUMAN H. NEWBERRY ET AL., PLAINTIFFS IN ERROR,

vs.

THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MICHIGAN.

FILED SEPTEMBER 23, 1929.

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IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISISON.

United States of America
vs.
Truman H. Newberry, Frederick Cody, Paul H. King, Charles A. Floyd, William J. Mickel, Allen A. Templeton, Roger M. Andrews, Milton Oakman, Richard H. Fletcher, James F. McGregor, Fred Henry, Hannibal A. Hopkins, Elbert V. Chilson, John S. Newberry, Harry O. Turner, B. Frank Emery and George S. Ladd, impleaded with one hundred and eighteen others.

JOINT AND SEVERAL
BILL OF EXCEPTIONS.

Heretofore at a term of this Court held in the City of Grand Rapids, in and for the Western District of Michigan, Southern Division, before the Honorable Clarence W. Sessions, United States District Judge for the District aforesaid, to wit, on the 15th day of December, 1919, counsel for all of the defendants named in the indictment, moved the Court for an order requiring the attorneys for the Government to furnish them with certain lists and information specified in the following affidavit which was therewith filed and submitted in support of the said motion:

STATE OF MICHIGAN, }
COUNTY OF IONIA, } ss.

GEORGE E. NICHOLS, being duly sworn, says that he resides at the City of Ionia, Western District and Southern Division of Michigan, and that he is a duly licensed attorney of this court; that he has been such for many years and has been practicing law in all of its general branches for the past thirty-five years in the said State of Michigan, and makes this affidavit for and in behalf of the defendants named in the indictment returned in this cause, being authorized so to do.

Deponent further says that he is one of the general counsel

for the said Truman H. Newberry, and for nearly all of the other defendants named in the indictment in this cause; and that he is associated with the Honorable James O. Murfin of the City of Detroit, Michigan, and the Honorable Martin W. Littleton of the City of New York, New York.

Deponent further says that he has given considerable attention to the consideration of the law, and the facts that are involved in the trial of this case, and has discussed with his associate counsel the necessary and requisite steps to be taken to prepare for trial; and that this deponent has been by mutual agreement, assigned to an examination of the facts for the purpose of the necessary and adequate preparation of the trial of said cause; and that it is deemed essential and necessary by all counsel engaged in the case that certain steps be immediately taken to investigate the facts, and learn, as far as possible, what claims are to be or will be made by the Government tending to show that the defendants, or some of them, are guilty of the offenses charged in the respective counts of the indictment returned herein by the Grand Jury, who for some four weeks, as this deponent is informed, inquired into and investigated the so-called Newberry Primary and election campaign held and carried on in Michigan in the spring, summer and fall of 1918.

Deponent further says that he is also informed, which information he believes to be true, that some four hundred witnesses were summoned to appear before said Grand Jury; that many of them testified before said Jury and that many who were called made statements to the representatives of the Government privately and were not called before said Grand Jury, and that many made statements to the said representatives of the Government and were also called before said Grand Jury and testified, but what those statements were or what facts they set forth, or what the respective witnesses or parties claimed to know, or what acts or things concerning themselves or others they related, or whether such statements were true or false, or how or in what manner they effected the respective defendants or any of them, or whether they tended to show the guilt or innocence of any or all of the defendants, this deponent and his associates are not informed and do not know, and that this deponent verily believes that the defendants themselves do not know.

Deponent further says that in the indictments so returned there are some forty-four so-called overt acts set forth but that it is not shown and the Government have not attempted to show wherein or in what manner said so-called overt acts tend to show or are important or material as bearing upon the gist of

the offenses charged, to wit, a conspiracy to commit some offense in violation of the laws of the United States, and that this deponent is informed, which information he believes to be correct, that the Government intends to offer in evidence many more overt acts, to wit, one thousand, for the reason that certain counts in the indictment charge that the defendants conspired, combined, confederated and agreed together, and with divers other persons, to the Grand Jurors unknown, to commit a great number, to wit, one thousand offenses against the United States, each to consist of giving money and things of value to a person to vote for the said Truman H. Newberry at said election and a great number, to wit, one thousand other offenses against the United States, each to consist of giving money and things of value to a person to withhold his vote from said Henry Ford at said election, and, therefore, it must necessarily follow that to establish and prove one thousand offenses, more or less, committed by the aforesaid defendants, or some of them, it will be necessary for the Government to offer testimony to prove and to prove at said trial at least one thousand overt acts more or less, and inasmuch as the conspiracy charged is one to accomplish a purpose not in itself criminal or unlawful by criminal or unlawful means under the laws of the land, the indictments must set out the criminal or overt acts to some extent at least, and such an attempt has been made, but the method and manner of averring and alleging the overt acts is wholly insufficient and inadequate to apprise defendants or their counsel of the testimony that the Government proposes to offer in support of all or any of the counts contained therein.

Deponent further says that the defendants and none of them, as this deponent verily believes, and none of the counsel know the names and addresses of all of the witnesses who were before said Grand Jury, or the persons who were called into private and secret interviews with the representatives of the Government and made statements in writing or otherwise to such representatives concerning their connection and knowledge of such matters under investigation by said Grand Jury, and neither do they know the character, reputation and standing, as citizens, and residents of the community wherein these witnesses reside, or their connection, if any, with the so-called primary and general election campaign of Senator Newberry, except in a few instances, or wherein the facts they and each of them claimed to be in possession of effect the guilt or innocence of the defendants or any of them.

Deponent further says he verily believes that none of the de-

fendants know and none of the counsel know, the relation of the overt acts which it is the purpose of the Government to offer in evidence, to wit, one thousand, with the offenses charged in the different counts of the indictment in this case, or who or what person or persons that the Government expect to call as witnesses in support of such acts except those persons named in the indictment itself; and that there are but the following named persons:

Lyle Shanahan, Dwight H. Fitch, Phillip Lewis, Henry Smith, David Vandermuelen, Bert Kleukowski and Charles I. Norat, their relation with the defendants, or some of them, the circumstances, purposes and force of the testimony that such witnesses propose to give before the court upon the trial of this cause.

Deponent further says that it is utterly and absolutely impossible to fully and adequately prepare this case for trial, both as to the law and the facts, unless an opportunity be given forthwith to counsel for the defendants to investigate these thousands of overt acts or at least a great many overt acts, which, through the mouths of many witnesses, whose names at the present time to this deponent and his associates are unknown, the Government must unquestionably establish, if it establishes the guilt of the defendants at all, and there being one hundred and thirty-five defendants named in this indictment who are charged in the different counts with a general conspiracy to violate the laws of the United States, it must follow without question or the shadow of a doubt that the only method or manner of proving such a far-reaching and extensive agreement and conspiracy between all of these defendants as charged, that such agreement or conspiracy, if established at all, must be through the channel of numerous overt acts, so numerous, indeed, that the Government has not attempted to set them or any major part of them out into the indictment; and that the proof of such acts cannot lie exclusively and entirely within the knowledge of the defendants, and those persons mentioned in the indictment; and that numerous other witnesses must be called, sworn and examined on the part of the Government, who are entirely unknown to the defendants, or their said counsel, and will remain unknown unless the motion, in support of which this affidavit is made, is granted until they are called as witnesses to the stand, and then, the defendants being so numerous in number, and represented by so few counsel, it is going to be practically impossible, without great delay and confusion, to learn all of the salient facts and circumstances surrounding the

testimony of such witnesses, or explanations and valid, legitimate and lawful reasons for the alleged statements, acts or doings of the defendants collectively or individually, as claimed by the witness or witnesses, to the end that the witness or witnesses may be intelligently cross-examined and the truth elicited, and the character, personal animus, relations and other matters that might and would effect the testimony of the witness or witnesses, one way or the other, could not be developed unless the Government is required to furnish counsel of the defense the names of the witnesses sworn before the Grand Jury, the names of the witnesses that it expects to call on the prosecution of the trial, without delay and in time for the defense to make inquiry, not as to what the witness or witnesses testify to before the Grand Jury, but as to any statements that he or she may have made to the Government representatives, as well as the fact or facts that they propose to testify to upon the trial, and to learn and ascertain the character, reputation and standing in the community where the witness or witnesses reside, as well as his or her relations and animus, if any, with, against or for any or all of the defendants.

Deponent reasserts that to go to the trial of this case, wide as it is in its scope, important as it is to the Government and State, and to each and every one of the defendants, who, without exception are citizens of good standing in Michigan, and who are entitled, in the opinion of this deponent, to every matter or thing that does not violate the law or shock the conscience of the court, that will aid and assist them and their counsel in preparing to meet and overcome a charge that to them and each of them, to their families, and friends, means much indeed; and this deponent does not believe that it is the purpose or object of any criminal prosecution under the Constitution and laws of the United States and the laws of the respective states, by any secret methods or undue advantages, to prevent the defendants from making a full and complete showing of their defense before a jury of tryers, and it is within the knowledge of this deponent as an experienced lawyer at this Bar, that unless the Government is required to furnish the defense forthwith the names of the witnesses before the Grand Jury and the names of the witnesses from whom it has obtained written or verbal statements through the force and power of summoning such parties before them ostensibly as witnesses to go before the Grand Jury, the names of persons whom the Government expects to call as witnesses upon the trial of said cause, that the said defendants cannot, and will not, have a fair and impartial trial wherein they,

each and all, severally and collectively, may make a full and complete defense, regardless of the fairness and caution of the court and impartiality of the jury who may sit to hear said cause.

And further deponent says not.

(Signed) GEORGE NICHOLS.

Subscribed and sworn to before me this 9th day of December, 1919.

ANNA E. WELTON,
Notary Public, Ionia County, Mich.

My commission expires Sept. 23, 1920.

After hearing argument, the application was denied, to which ruling counsel for the said defendants duly excepted. In denying the said motion, the Court delivered the following oral opinion:

THE COURT: It would be mere sham and pretense if I were to say that I desired further time to consider this matter before deciding it, because I have given the question most careful consideration and have fully determined what ought to be done.

It appears from the arguments that there is some misconception; first, as to what this case is, what its character is; and, second, as to the duty of the Court in a criminal case.

From a legal standpoint this case is neither peculiar nor unusual. Conspiracy cases are of the most common occurrence, particularly in the Federal Courts. The only unusual and peculiar feature of this case is in the number of men who are made defendants. The difficulties, particularly the physical difficulties, are large; but such difficulties arise not because unusual questions are presented, but because of the number of the defendants. In other respects it is the ordinary conspiracy case involving a combination and agreement to violate the laws of the United States.

There seems also to be a misconception as to the duty of the Court in determining a preliminary motion of this kind, and as to the rights of the defendants prior to the final trial of the case. The law invests no man with a halo because he is indicted and charged with crime. At this stage of the case the law does not require the Court to presume that the indictment is false and untrue and that the defendants are innocent of the charge made against them. That rule does and must prevail at the trial. The rules which require the presumption of innocence and proof of guilt beyond a reasonable doubt are overworked if applied to the determination of motions of the character of this one. It is the duty of the Court, as well as the limit of such duty, to see

to it that every right of the defendants is fully safeguarded and protected. It is not the duty of the Court to place obstacles in the path of justice, nor to obstruct the due administration of the law. It is not the duty of the Court to build the walls of safeguards so high and so strong that the government and its officers cannot by any possibility surmount or break through them. In the language of the Supreme Court: "It should, after all, be borne in mind that the object of criminal proceedings is to convict the guilty as well as to shield the innocent." That is the rule of the highest authority in the land, and also of common sense.

Again, we may lay aside the question of the right of the defendants to a list of the names of the witnesses for the government, because it is and must be conceded, under the authorities, that the defendants are not entitled to such list as a matter of right. Indeed, Congress has decreed to the contrary when it declared and specified the classes of criminal cases in which such list must be furnished. It is a familiar rule of law that the inclusion of one is the exclusion of others. Congress has provided that in cases of treason and other capital offenses the defendant is entitled to the names of the witnesses who are to be called to testify against him, and in so doing has denied the right in other cases.

Decisions of state courts, based as they are upon state statutes, are of little help in this matter. The procedure in criminal cases in the Federal Courts is governed by Federal laws.

The present application is and must be made to the discretion of the Court, and, in the exercise of such discretion, the Court must constantly keep in mind its duty not only to secure an impartial trial, but also to do exact justice, so far as possible, between the government and the accused. The discretion so reposed in the Court should be exercised in favor of the defendants for the protection of their rights and interests whenever it can be done without at the same time unduly and unwarrantably obstructing and hindering the government and its officers in the prosecution and in the due administration of the law. In other words, while the Court should be scrupulously careful to protect the rights of the defendants, it should not be so tender to them as to create embarrassment or obstruction which may result in a miscarriage of justice.

I am not disposed to base this decision upon any technical insufficiency of the supporting affidavit. It may be doubted that an attorney, without knowledge and with little information of the facts, can make an affidavit sufficient to support an applica-

tion of this kind, but I am disposed to assume that the affidavit is sufficient and to place the decision upon a broader basis.

What are the conditions and what is the situation here presented? The charge is conspiracy. The charge is not that these defendants violated the election laws of the United States or the State of Michigan. The charge is that they entered into a conspiracy to violate those and other statutes of the United States. It is not necessary to warrant a conviction that the object of a conspiracy should have been accomplished, or even that an actual violation of the election laws should have been accomplished. It is only necessary that the government shall establish that there was a combination and agreement and conspiracy by and between and among these defendants to accomplish such violation, and that one overt act was committed for the purpose of effecting the object of the conspiracy.

Undue prominence was given to the fact that this indictment alleges many overt acts, thirty-eight in some of the counts and more in others. If I were to make any criticism of this indictment in that regard, it would be that too many overt acts are alleged. The overt act, if proven, is sufficient. The gist of the case is the conspiracy, and not one or any number of overt acts. The conspiracy itself is the crime.

In one case—the only Federal case to that effect cited by counsel or discovered by diligent search—it has been said that the rule requiring the list of names of witnesses to be furnished is peculiarly applicable to a conspiracy case. I am unable to follow and much less to approve the reasoning of that case. From its very nature, a conspiracy can seldom be established except by circumstantial evidence. A conspiracy is conceived and born in secrecy and darkness, and the difficulties of proving its existence are usually very great. Sometime? when a conspiracy actually exists, the difficulties are insuperable. Ordinarily the government can only touch here and there upon some fact or circumstance which indicates that there was an unlawful combination to bring about an apparent result. Who knows to a certainty whether the conspiracy here alleged was imaginary or real? Who knows whether or not any named person took part in the conspiracy, if one existed? Is it not the defendant himself? This is not a matter of theory, but one of practical common sense.

The conspiracy set forth in this indictment related to the political campaign of 1918, and, if it existed, covered the entire State of Michigan. Its magnitude increases the difficulties to be encountered by the prosecution, but does not materially increase

the difficulties of any one of the defendants. It is said that a man in Detroit may be bound by the acts of a man in the Upper Peninsula of which he knew nothing. That is true, provided the government establishes its case and shows that there was a conspiracy; but unless the government does show that there was a conspiracy between the man in Detroit and the man in the Upper Peninsula, its case will fall. The man in Detroit as well as the man in the Upper Peninsula knows better than any one else whether or not he did enter into an unlawful agreement or arrangement with the other, or any of the others named in this indictment. Every man who is here accused not only knows his own guilt or innocence, but also knows the exact part taken by him in the campaign out of which this prosecution grows. If he paid out or received money he knows it. He knows to whom he paid and from whom he received money. He knows the purpose of the payment or of the receipt. If he actively participated in the campaign he knows who were his associates and the manner and method of such association.

A conspiracy always involves concerted action and may be, and usually is, a matter largely of intention. The pathway leading to a disclosure of purpose of mind and concealed action is, at best, an obscure one and should not be unnecessarily obstructed by the action of the Court. The trial of this case will not be concluded in a day or a week and, with the means and agencies at the command of defendants, guided by skillful and able counsel, ample opportunity will be given for inquiry into the character and knowledge of witnesses who may be called to testify.

The application here presented is of the broadest character. The Court is asked to require the attorneys for the government to furnish not only a list of the names of the witnesses who have testified before the Grand Jury and who may be called to testify at the trial, but also a list of the names of all persons who may have made statements to the attorneys for the prosecution. There may have been many reasons why a witness was not produced before the Grand Jury. It may have been because the United States Attorney after talking with the witness discovered that he could not testify to any matter material to the case; or that his testimony would be merely cumulative; or that his testimony would not be competent. The statement of a proposed witness may have been merely hearsay, and yet have furnished valuable information as to the place where and the person from whom competent testimony could be obtained. Ofttimes a person will volunteer valuable information, which is not competent testi-

money, provided his name shall not be disclosed. To require a disclosure of the names of such witnesses would necessarily close their mouths. The granting of this application would not be of material benefit to the defendants and might work a great hardship upon the government, and might result in a miscarriage of justice. For these reasons the application will be denied.

In overruling the demurrer the Court handed down the following written opinion:

THE COURT: The question of the power of Congress to enact the legislation upon which the first four counts of the indictment are based is the important and controlling one presented by this demurrer. The decision in this matter hinges and depends upon the determination of that question. The challenge is to the power of Congress and not to the extent or to the manner of the exercise of its admitted authority. The issue is of the right to act and not of the intent or purpose of the action. In this respect, the present case is quite different from those cases upon which counsel for respondents place their chief reliance. There the validity of the statutes under consideration was either conceded or assumed, but their application to the subject matter of the controversy was denied. Here the attack is not upon the application but upon the validity of the law. Therefore, the cited cases of that character furnish little help or guidance in solving the problem, upon the solution of which this decision must finally rest.

The Act of Congress here attacked needs no interpretation as to its meaning or purpose. It is couched in language so plain that "he who runs may read," and reading, may understand:

"No candidate * * * for Senator of the United States shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election, any sum, in the aggregate, in excess of the amount which he may lawfully give, contribute, expend, or promise under the laws of the State, in which he resides;" and, in no event, even though the state laws may be silent upon the subject or may permit larger expenditure, shall he "give, contribute, expend, use, or promise any sum, in the aggregate, exceeding ten thousand dollars in any campaign for his nomination and election."

The statute of the State of Michigan, which Congress has thus adopted, is equally positive, definite and explicit:

> "No sums of money shall be paid, and no expenses authorized or incurred by or on behalf of any candidate to be paid by him in order to secure or aid in securing

his nomination to any public office (including the office of United States Senator) or position in this state, in excess of twenty-five per cent of one year's compensation or salary of the office for which he is candidate. * * * No sums of money shall be paid and no expense authorized or incurred by or on behalf of any candidate who has received the nomination to any public office (including the office of United States Senator) or position in this state, in excess of twenty-five per cent of one year's salary or compensation of the office for which he is nominated. * * * No sum of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate contrary to the provisions of this Act."

"No candidate * * * shall pay, give or lend, or agree to pay, give or lend, either directly or indirectly, any money or other valuable thing for any nomination or election expenses whatever, except for" eleven specifically enumerated purposes.

Combining and construing together, as must be done, the Federal and State statutes above quoted, and applying them to the present case, it is clear that, if they are constitutionally valid, the respondent, Truman H. Newberry, in procuring his nomination and election to the office of United States Senator, could not lawfully have given, contributed, expended, used, or promised, or have caused to be given, contributed, expended, used or promised, any sum of money in excess of $3,750.00—one-half the annual salary of a Member of Congress;—and such sum of money could lawfully have been expended and used for no other purposes than those enumerated in the state statute.

Each of the first four counts of the indictment charges, in apt language, with great precision and clearness and in much detail, a conspiracy by and between all of the respondents to violate this Act of Congress. It follows, that the demurrer to these counts must be over-ruled unless the enactment of this statute did not constitute a valid exercise of the constitutional powers of the National Legislature.

The argument against the validity of the Act of Congress under consideration is divided into three stages, steps or phases. The contentions are: (1) That the Act is in no sense a regulation of the election of Members of Congress, but is an ineffectual attempt to control the conduct of the candidate as an individual; (2) That neither the Federal nor the State Legislature has power to place a limitation upon the amount of money which a candidate may contribute, use or expend for purposes

which, in, of and by themselves, may be legitimate and lawful; and (3) That, even if it be assumed that Congress may thus regulate general elections at which its members are finally selected and chosen, its powers of regulation do not extend to nominating conventions or primary elections, because the nomination of party candidates for those offices lies wholly within the domain of state sovereignty and entirely outside of the realm of national control. These contentions are so blended, inter-woven and inter-dependent as to make their separate discussion confusingly repetitious if not practically impossible.

It is settled doctrine, on the one hand, that, "the Government of the United States can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given, or given by necessary implication;" and, on the other hand, that, "where the Constitution grants a power in general terms, the grant includes all such particular and auxiliary powers as may be necessary to make it effectual," and that Congress is invested with authority to avail itself of such means or agencies and enact such laws for carrying into effect its enumerated powers as shall be requisite, essential, appropriate, or conducive to the accomplishment of that result. In the words of Chief Justice Marshall, uttered more than a century ago: "We admit as all must admit, that the powers of the government are limited, and that its limits are not to be transcended. But we think the sound construction of the constitution must allow to the national legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited but consistent with the letter and spirit of the constitution, are constitutional."

The Congress itself is created and its composition definitely fixed by the Constitution. In and by the express terms of that instrument, it is clothed with full and plenary authority to regulate the manner of holding elections for its own members and "to make all laws which shall be necessary and proper for carrying into execution" not only the powers vested in itself, but also "all other powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof." The power thus conferred is so broad and so vast that no man and no tribunal has as yet had the temerity to attempt to define

with certainty its ultimate boundaries. Again in the language of Chief Justice Marshall, "the question respecting the extent of the powers actually granted (by the Constitution) is perpetually arising and will probably continue to arise, so long as our system shall exist." In the process of its development, the legislative authority of Congress has reached, with the sanction and approval of the Court of Last Resort, from the occupant of the White House to the dweller in the mountain cabin in securing to each the enjoyment of those rights which are guaranteed to all by the fundamental Law of the Land; from the regulation of continental railway systems to the protection of the humblest section hand; from the trafficker in woman's virtue to the petty thief who steals from an interstate freight shipment; from the mammoth brewery to the "moonshine" still; from the building, equipment and operation of huge postoffice establishments to the safeguarding of the life and person of the star-route mail carrier; from the construction of great harbors and breakwaters to the licensing of pleasure yachts; from the levying of tribute upon the privilege of inheriting property to the assessment of taxes upon the luxuries of life; from the raising and supporting of armies in times of war to the stimulation and guidance of commerce in times of peace; and so on, from extreme to extreme, in every department of Federal governmental activity. This power of Congress, although resisted and denounced at every step, whether in the open field of debate or in the narrower arena of judicial proceedings, with rare exceptions—notably rare in these modern days—has emerged triumphant from every conflict, real or imaginary, between state and nation. It goes without saying that authority, so great and so far reaching, must necessarily include the right of self protection, self preservation and continued existence. What may be done in one state, may be done in another, or in all the others. If, as urged by counsel for respondents, Congress is impotent to enact laws to prevent a candidate for the office of United States Senator from procuring his nomination and election by the lavish expenditure of huge sums of money, and by the corruption of the electorate through bribery, then money rather than fitness and ability becomes the controlling political force and not only the dignity and honor but also the very life of the Nation is threatened and endangered. Because of its hidden and insidious character and the difficulties of discovery, conviction and punishment, the corrupting influence of money, when directed toward and into congressional elections, is infinitely more to be feared and more deadly to American ideals, American institu-

tions and the American Government than the terrors of the Ku Klux, the coarse practices of the ward heeler, or the dishonesty of the custodian of the ballot box. The power of Congress to lay hold of and to eradicate both the lesser and the greater of these evils was adjudicated and settled many years ago, and at this late day, cannot be successfully denied.

But, it is said that, while Congress, acting within the limits of its constitutional powers, may regulate the election of its own members, it may not interfere, in any manner, with the wrongful conduct of the individual candidate for that high position. Why not? Crime is personal and the prevention of crime necessarily involves the restraint of the individual. The law first defines the offense and then singles out and punishes the offender. Even in those cases where the artificial beings called corporations are capable of violating the law, the man behind the corporation is always the real criminal. In regulating congressional elections, the National Legislature may, in its discretion, and wisdom, occupy the entire field, or any part thereof, whether large or small. It may assume full responsibility, or it may leave the whole or any part of the burden to be borne by the State. If authorized to prescribe limitations upon money contributions and expenditures in procuring the nomination and election of a candidate for the office of United States Senator, it may apply such limitations to all persons, to any class of persons, or to the candidate alone. Indeed, the most direct and effective method of preventing the evil denounced by this statute would seem to be to lay a restraining hand upon the most interested party, the candidate himself. When faced with a charge of this character, it is no defense for him to say that, through either oversight or design, the same conduct by others has not been made criminal or punishable; or to resort to that last refuge of the wrongdoer who, when ensnared and enmeshed in the toils of the law, seldom fails to raise the cry that others have done the same thing and have gone unwhipt of justice. His sole concern is with himself and not with the doings or the deserts of others.

The contention that no authority resides in either State or Nation to place a limit upon the expenditures of a candidate for public office in procuring his election, provided the immediate objects and purposes of such expenditures, when considered alone and by themselves, are legitimate and lawful, is supported by neither reason nor authority. In fact, no attempt has been made to sustain by authority this novel and startling doctrine. The law looks through the means employed to the end to be ac-

complished. Independent acts, each innocent in itself, when cemented together by a wrongful intent may produce a criminal result. When the merchant honestly advertises his wares in one or a thousand newspapers, or employs a score or more of traveling salesmen, he is doing a lawful thing. His purpose is to increase his sales in the hope of a resultant increase of profits. Both the purpose and the desired result are legitimate. If successful, he is benefited and no one is injured beyond, possibly, the somewhat added cost of his goods to the consumer. But, when the candidate for public office pursues like methods and by subsidizing and purchasing the powerful influence of the Public Press, in either editorial or advertising columns, and by buying the services of field and office agents and skillful political propagandists, succeeds in securing the coveted position, which he could not have obtained by usual and legitimate means, the result, although beneficial to himself, necessarily weakens the moral fiber of the people and lessens their respect for our institutions and our form of government. In law, as well as in morals, a seat in Congress, obtained in such manner and by such practices, is none the less purchased than if the money paid to newspapers and to campaign managers and workers had been paid directly to the voters for their votes. It is such acts and conduct of men prominent in public life and affairs as those depicted and portrayed in this indictment that lend color of truth and semblance of reason to the mad ravings and rantings of the enemies of organized government already too numerous in our midst. If such intolerable conditions cannot be corrected and prevented by the strong arm of the Federal law and must be endured, then our boasted freedom and equality have become mere mockery and delusion, and, henceforth, the hopes and aspirations of every man for political preferment, whatever his learning, ability and talents, must be measured and bounded by the size of his pocket book. To deny this Government the right to protect itself from such evils is to deny its right to continue to exist.

Upon this branch of the case, it is further and finally urged that, whatever may be the right of Congress to regulate general elections, it cannot extend its authority to the control of conventions or primary elections for the nomination of party candidates for the office of United States Senator. Again, why not? Can it be possible that Congress may protect the political stream from pollution in its lower reaches but is helpless to prevent the dumping of filth and poison into the spring at its source? It has been definitely settled that Congress may reach back of the

general election to the registration of voters for that election. But the registration of voters is not as essential to the election as the nomination of candidates. An election may be held without registration, but not without candidates. Theoretically, perhaps, an election without previous nominations is possible, but, practically, it is impossible. Theoretically, also, a man may be elected to the United States Senate without having been previously nominated for that position, but, in fact, he cannot. The law deals with practical realities and not with theoretical impossibilities. In actual practice, the nomination of candidates for public office is as essential to an election as are polling places, ballots, ballot boxes and inspectors. It is no longer open to dispute that Congress may protect and control the latter; by the same reasoning, why not the former? It is common knowledge, and, therefore, not to be blindly ignored by courts, that, in a majority of the states of the Union, under normal conditions, the nomination for the office of United States Senator by the dominant political party is, in fact, the election, and that the subsequent ratification at the polls is little, if any, more than mere formality. In every state, the nomination is a necessary pre-requisite to the election.

It must be remembered that the Constitution grants to Congress, in express terms, the power to regulate the manner of holding elections for its own members and also grants to the same branch of the Government, in like express terms, the further power to make all laws necessary and proper for carrying into execution the first named power. In the first instance, Congress is the judge of the necessity for and the propriety of its laws. "Where the law is not prohibited, and is really calculated to effect any of the objects entrusted to the Government, to undertake here to inquire into the degree of its necessity, would be to pass the line which circumscribes the judicial department, and to tread on legislative ground." Courts may not inquire into the wisdom or want of wisdom of legislative acts and will not set them aside as unconstitutional unless it is clearly apparent they can by no means be needful or appropriate to the execution of some power expressly conferred. When ever, in the course of Judicial inquiry into the validity of an Act of Congress, it is found that such law has an apropriate and direct bearing upon and relation to some power expressly reposed by the Constitution in the Government of the United States, or in some branch, department or officer thereof, and that, in the exercise of such power, a real and fair necessity or propriety for such legislation exists, the inquiry is at an end. No exact definition

of the word "election," which will meet all requirements, under all circumstances and conditions, is possible. Its meaning, when used in state constitution or statute, of course will depend, in a large measure upon context and the purpose to be served. To hold that the phrase of the Federal Constitution, "Manner of holding elections for Senators and Representatives," includes not only the election itself, as a whole, but also the means and processes which may be employed in the election, accords with both reason and controlling precedent. A primary election may not, in and of itself, be an election within the technical meaning of that term as used in the constitution, but that, when employed, it is a necessary step in the process of the election cannot be successfully denied; nor can it be denied that the regulation of the nominating or primary election has an important and direct bearing upon, and may be an essential part of, the regulation of the general election itself.

It is no answer to say that the regulation of primary elections has never before been attempted by Congress. The Law is progressive. New developments create new conditions and necessitate new laws. It is not exaggeration to say that the framers of the Constitution and the authors of the Amendments thereto never dreamed that the "Commerce," "Due Process" and other clauses of that instrument would be extended, as they have been, to the control of many of the intimate social and commercial relations of the people of the several states. Once again let the great Chief Justice speak;

> "The subject is the execution of those great powers on which the welfare of a nation essentially depends. It must have been the intention of those who gave these powers, to insure, so far as human prudence could insure, their beneficial execution. This could not be done, by confiding the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate, and which were conducive to the end. This provision is made in a Constitution, intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs. To have prescribed the means by which government should, in all future time, execute its powers, would have been to change, entirely, the character of the instrument, and give it the properties of a legal code. It would have been an unwise attempt to provide, by immutable rules, for exigencies which, if foreseen at all, must have been seen dimly, and which can be best provided for as they

occur. To have declared, that the best means shall not be used, but those alone, without which the power given would be nugatory, would have been to deprive the legislature of the capacity to avail itself of experience, to exercise its reason, and to accommodate its legislation to circumstances."

At the argument, the query most frequently propounded was: How far may Congress go into the State to meet the candidate for the office of United States Senator? Beyond fair and serious doubt, the answer is and must be: All the way to the point where the path leading toward the halls of national legislation diverges from the broad highway traveled by the general public in the conduct of its daily affairs. The decree and mandate of Congress, when issued, must be his protector, conductor, monitor and guide, his "pillar of cloud by day and pillar of fire by night."

The insistence that the legislation here under consideration impinges upon and violates that other constitutional provision that, "each House shall be the judge of the elections, returns, and qualifications of its own members" is clearly negatived by the ruling of the Supreme Court in the Burton case. The claim that this statute, so construed, denies to the candidate "the equal Protection of the Laws," even if it could be urged against an Act of Congress—and it cannot—and the kindred claim that one guilty of misconduct which violates two separate statutes, enacted for different purposes, defining different offenses and providing different penalties, cannot be prosecuted under both, are patently without merit. A discussion of the many other objections which are pressed with more or less vigor against the first four counts of the indictment would be unprofitable and would extend this opinion to an unwarranted length. It is sufficient to say that a careful consideration and study of such objections and a painstaking examination of the authorities cited in support thereof lead to the conclusion that they are each and all untenable.

The fifth count of the indictment is based upon Section 37 of the Penal Code and the Act of Congress approved October 16, 1918. The latter enactment is a Corrupt Practices Act providing punishment for the bribery of voters at primary or general elections for members of Congress and, apparently, was intended to meet the conclusion voiced by the Supreme Court in recent cases that Congress had abandoned that field of regulation and returned it to the supervision of the states. As appears by the date of its approval, the Act did not go into effect until

after the Michigan primary election in August, 1918. Hence, the charge in this count of the indictment relates solely to the conduct of the respondents with reference to the general senatorial election. What has been hereinbefore said concerning the authority of Congress to enact such legislation applies and need not be repeated.

The sixth count is based upon Sections 37 and 215 of the Criminal Code. The validity of Section 215 is conceded, but its application to the facts alleged in this count of the indictment is denied. The vice of the argument lies in the erroneous assumption that an attempt is here made to apply Section 215 to the regulation and control of elections. The gist of the offense alleged in this count and denounced by this statute is the use of the United States mails in furtherance of, or in the execution of, a scheme to defraud. The setting and surroundings of the scheme or artifice to defraud are wholly immaterial. If in fact it be fraudulent, then, regardless of its subject matter and regardless of whether its purpose is blackmail, the sale of stock in a fake gold mining corporation, the unlawful collection and use of money in a political campaign, or what-not, it cannot be carried out by or through the use or with the aid of the Post Office Establishment. Tested by this rule, it is clear that the sixth count must be sustained.

Whether the scheme, to devise which the respondents are therein charged to have conspired, can be said to have been one to defraud, within the purview of Section 215, either the whole people of the State of Michigan or the persons who were candidates for nomination and election to public office in the State and in the Senate of the United States, may admit of some doubt. But this decision does not require a determination of that question. The fraudulent scheme, as specifically set forth and described, was to consist, in part at least, in procuring, by false representations and other means, excessive and unlawful contributions to the campaign fund of respondent, Truman H. Newberry, and in devoting a large share of the moneys, so to be procured and contributed, to unlawful purposes and in unlawfully appropriating and converting another large share thereof to the use and benefit of the alleged conspirators. It is beyond controversy that the use of the mails in the execution of such a scheme is within the ban of the statute. The demurrer will be over-ruled.

Subsequently, and before the indictment came on to be tried, nine of the defendants, namely, Peter J. Brady, August Field, Earl Fairbanks, J. Scott Hunter, Hugh Maddigan, John P.

Hewitt, Karl B. Matthews, Harrison Merrill, Neil R. Walsh and Allen K. Moore entered pleas of nolo contendere. The defendant James Daily has never been arrested or submitted himself to the jurisdiction of the Court; all of which appears by the record. The defendant Elmer E. White was unable to appear for trial by reason of illness.

The trial of the defendants named in the title of this bill of exceptions, who will be hereinafter referred to collectively as the defendants, and the remaining one hundred and five others, all of whom were acquitted as appears by the record, was commenced at the same term of this Court, held at the city of Grand Rapids, aforesaid, in and for the District and Division aforesaid, on the 26th day of January, 1920, and continued by due adjournment to and including the 20th day of March, 1920, before the said Honorable Clarence W. Sessions, United States District Judge for the District aforesaid.

The Government appeared by Frank C. Dailey, Esquire, and W. H. Eichhorn, Esquire, both of Indianapolis, Indiana, Special Assistants to the Attorney General.

The defendants so named, appeared in person, and by James O. Murfin, Esquire, of Detroit, their attorney. Associated with Mr. Murfin, G. J. Diekema, Esquire, of Holland, Michigan, appeared for the defendant Charles A. Floyd, and Harry E. Chase, Esquire, of Grand Rapids, for the defendant Richard H. Fletcher. Mr. Murfin, Martin W. Littleton, Esquire, of the New York Bar, and George E. Nichols, Esquire, of Ionia, Michigan, appeared as counsel for all of the defendants. Mr. Hal H. Smith, of Detroit, appeared as attorney for the defendant Frank W. Blair, who was acquitted, and on behalf of his client cross-examined the government's witness Wesley M. Bennett, who testified, as will hereafter appear, to his examination and analysis of Mr. Blair's report as Treasurer of the Truman H. Newberry Campaign Committee and the books of that Committee. Mr. Smith also cross-examined some of the other witnesses called by the Government whose testimony was more or less directed against Mr. Blair. The defendants who were acquitted were represented by upwards of sixty other attorneys.

The challenge to the array was filed January 27th, 1920, and argued that day before any of the persons summoned to attend as jurors had been called. Before hearing arguments thereon, the Court, referring to that part of the challenge appearing under the Roman numeral II, said:

THE COURT: I see one statement here that I am disappointed in its being made because it is untrue, and must have

been known to be untrue; that this order that was endorsed was unknown to any of the defendants. I had it in my office when there was a consultation with Attorneys, and read it to all of the Attorneys present.

MR. LITTLETON: You don't mean I was present?

THE COURT: I mean, sir, that you were present.

MR. LITTLETON: When you read the order?

THE COURT: Yes, and I read you the order that had been prepared, and told you the order would be endorsed on the summons.

MR. LITTLETON: You don't mean that I consented to the order?

THE COURT: I did not say that.

MR. LITTLETON: I don't know what you meant to say; I mean to say I did not consent to the order.

THE COURT. "Without the consent or knowledge" is the language of your statement. Gentlemen, papers that are filed should be truthful.

MR. NICHOLS: I drafted that challenge personally, and I have no recollection of this matter being up. Since you have spoken of it, it seems to me there was some discussion the first time we had a meeting, the first conference.

And I want to say to the Court, that I drafted this and I had no recollection about it. I don't want any bad motives impugned; so far as that is concerned, we are all very liable to mistakes; I had no recollection of it; I haven't a clear recollection of the matter now. If Your Honor says that this was talked at that time, I am quite agreeable to say so.

THE COURT: It was not only talked, but there was a copy of the order that had been prepared, and it was read by me to the attorneys who were present, the exact order that was printed on the back of the summons.

After hearing arguments, the Court overruled the challenge, and in so doing, said:

THE COURT: The steps that have been taken to secure a jury in this case have been carefully considered, and advisedly taken from time to time, and such steps have been taken as were believed by the Court to be best adapted to the securing of a fair and impartial jury. And that is all that any one can ask in this case and what every one does ask. The course of procedure which has been followed with slight variation in one particular, has been the course of procedure followed for many years in this District. The selection of the jurors has been the same in all respects as the process of selection which has prevailed in

this District for, to my knowledge at least, a score of years, and there has been no deviation from that. It is the process which is prescribed by the statute of the United States. It is true that the Clerk and the Jury Commissioner upon whom devolves the duty of selecting jurors, or selecting the list of names of men which are to be placed in the box and from which the jury is to be drawn, and the different panels of jurors are to be drawn, must, in a District of this magnitude of territory, ascertain from others the names of men who are qualified to serve as jurors. The Clerks of the different counties in the District and the Clerks of the Courts of those counties are in a better position, perhaps, than any one else could be, to know the men who have made jurors in the Circuit Courts. That is one of the methods which has been adopted in securing lists of jurors. Those lists are returned in the manner prescribed by the State law, that is, the lists that come to the hands of the County Clerks, and the law which is designed to secure competent men to serve as jurors, and it is a fact of which this Court is very proud, that in the past in that manner we have secured the names of high grade men; so much so that it has really been a matter of comment that we have secured better juries in the Federal Court than are secured in the Circuit Courts. The reason is of course that there is a larger field to select from.

In the next place we have the pick of those who have been chosen originally. The Clerks have been asked by the Clerk and the Jury Commissioner to furnish lists of names from whom selections might be made. It is also true that other citizens—and perhaps it is not inappropriate to say that at my own suggestion a few years ago prominent attorneys of high standing in the different counties of the District were requested to send in the lists of names of men who would make good jurors, and the result was quite successful. Other men, men in business, men prominent in affairs, have been requested to send in lists, and from those lists so sent in jurors have been selected until the required number were in the box. In this instance it appears that after the regular panel of jurors was selected for the December term (and the usual number being thirty-six), it became necessary in view of this case that additional jurors should be selected. One of two courses could be followed, and there are one of two courses open now, and perhaps the alternative which is presented, if this application should be denied, would be but one. It was for the Court either to make an order that additional jurors be summoned in the usual way, the regular way, and their names taken from the list of names then in the box, which

was done. The extra names were not put in the box for the first drawing of jurors in this matter, but the names that were in the box, or had been there for some time, were used, and that might be done, or the alternative was to wait until the day of the trial and upon the exhausting of the regular panel, for the Court to instruct the Marshall to fill the panel. That is the course prescribed by law, and that would be the alternative which would be presented if this Court should grant this application. It did not seem to the Court that that would be satisfactory all around; that it was much better that the jurors should be selected in the usual way rather than that they should be selected hastily and summoned here by the Marshall.

Under those circumstances, after talking the matter over with attorneys in this case, the Court suggested that a hundred extra names be drawn. One of the counsel for the defendants immediately said that he thought it would not be sufficient, and his judgment proved to be eminently correct, and the order was made for 150 jurors to be drawn, and they were drawn in the usual way.

Subsequently there was a departure, a departure in form rather than in substance, however. The substance of the procedure has existed in this district for many years. Heretofore it has been customary, and the custom I think originated in this district many, many years ago and has been followed by most of the districts in the country at this time; so much so that the Department of Justice has made a rule and an order that it should be followed. The custom originated here I think, and that was to put a notice upon the back of the summons requiring each juror who was summoned, if he had an excuse to present, to write to the Judge of the Court and present his excuse, and warning him that unless he did so and he were excused for any reason which he might have presented in advance, he would not receive compensation, either a per diem or mileage for his attendance upon Court. That was an invitation pure and simple to every juror who had been summoned to write to the Judge and ask to be excused, and I will say that it got to be a good deal of a nuisance. Take the December panel: Out of the 36 jurors originally summoned, 16 had to be excused. They presented excuses in advance—or 14 of them in advance, and they were such valid excuses that the Court could not ignore them, and under the circumstances compelled to excuse them. That has been the practice. It was deemed best in this instance rather than to have a wholesale flood of applications to be excused in advance, to prepare

or adopt some method whereby jurors could be told that the duty of serving as a juror was one of the duties of citizenship, and that for any flimsy pretext he ought not to ask to be excused. The exigencies of this case made it necessary to depart somewhat from the usual method, because certain matters which under ordinary circumstances would not disqualify, would disqualify in this case; therefore the questionnaire was prepared. Each of the jurors was urgently requested to fill out and return the questionnaire. All but one of the jurors who are present did so. One through some oversight undoubtedly failed to return the questionnaire. The rest of them did so very cheerfully and very promptly; and as the returns were made lists of those who were excused and the reason for their being excused were given to counsel upon both sides of this case, usually within thirty minutes from the time that the excuse had been granted. The questionnaire in itself cannot be prejudicial; it certainly cannot prejudice any respondent in this case, nor the Government, to find out in advance whether a man is beyond the age of service as a juror. We had returns from some men that were upwards of eighty years of age on this list. They were excused. Under ordinary circumstances they might not have been excused unless they urgently applied for it. But this is a case where the jurors will be kept from separating, they will be kept together; a case where strength and health are certainly determining factors, and where a juror was beyond the age which the law prescribes for service as a juror, he has been excused, and none others have been excused except for valid reasons. It certainly could not be prejudicial to either of the parties in this case to find out whether a man was in good health or not, or whether he had sickness in his family. It certainly could not be prejudicial to anyone in this case to find out if there was any reason by virtue of which this Court would be compelled to excuse a juror after he had been summoned and come here perhaps from two hundred miles distant in order to present his excuse.

These respondents cannot be expected to be tried by a jury of relatives; they cannot expect to be tried by a jury of intimate friends; they cannot expect to be tried by a jury of business associates, and those were the questions which were propounded in that regard. Moreover, these respondents cannot expect to be tried by men who were actively engaged in the political campaign of 1918, the very campaign which is involved in this suit. I apprehend that the defendants and their counsel would indignantly object, and they would have a right to, if a

jury were selected from men who were active—and by activity I mean something beyond exercising the rights of citizenship in voting,—and everybody understands it to mean that; but a man who was active in that campaign for the opponent of one of the defendants in this case, I apprehend that there would be very indignant objection if a jury of that class of men were selected.

On the other hand the Government cannot be compelled to go to trial in this case with a jury of men who were active in the campaign on the other side. That is one of the matters in this suit which disqualifies, and which under ordinary circumstances would not disqualify, because it is a sign of good citizenship if a man is active in a political campaign under ordinary circumstances, and for every purpose save the purpose done of this trial. A man who was honestly, in the exercise of his good citizenship and his rights, active, ought not be permitted to sit on this jury; no matter whom he supported, what party or what candidate, he ought not to be here on this trial, and I think that fairness will appeal to every man of intelligence.

There was another question in the questionnaire, and that concerned a man's business and family affairs, being in such condition as to permit him to be absent from home the length of time it would take to try this case. That simply was the old matter put in a different way. Instead of inviting him to ask to be excused, as the old method did beyond peradventure, he was admonished that none but imperative reasons would excuse him, and none have been excused upon that ground save those who presented an excuse which seemed to be imperative under the circumstances. And it would have been an idle thing, as well as an expensive thing, to ask three hundred and fifty men to come here and to go into the box and be examined at the time and expense to themselves, to the Government and to the defendants, when in advance we could know that they must be excused. That is idle, and the law does not recognize the doing of a vain thing, nor approve of it.

There was a notice printed upon the back of each summons. It was done advisedly. The reason for that was solely this, and it certainly does not lie in the mouth of anyone to object to it): When a man has been notified to appear here as a juror, after he does appear the very first warning that is given is that he must not talk about any case on the calendar, he must not discuss it; that is the first warning that is given the jurors the first morning of the first day of the term when they appear; they must not discuss the cases, they must not talk about them

with their fellow jurors, and they must not permit anyone to talk to them, and if anyone attempts to talk to them about any case they will report the matter to the Court. That is the usual procedure.

In this case it was printed upon the back of the summons, for the reason that the case we are about to try is a noted one, one which is talked about, one which is discussed in the press as well as by individuals in this land, and it was simply to give a caution and warning in advance, and certainly there is nothing about it that could prejudice any man, and nothing about it but what would tend to get an impartial jury in this case.

The question involved, if there is a question of law, is not a new one. It is one which has been decided not only by inferior courts but by the Supreme Court. The objection, it seems to me, proceeds upon an erroneous assumption or basis. It is fundamentally wrong. The defendant in a criminal case—and it is purely by grace of the law—is given the right to challenge . The right to challenge is not the right to select at all. The right to challenge is the right to reject, not to select. If unfair tryers are presented as jurors, then the defendant has the right to reject, but he has in no case the right to select; that doesn't belong to him in the first instance. He has a right to have the jurors selected in the regular way and in the lawful manner in the first instance. He has a right to have men who are, so far as is possible to ascertain, fair and impartial. Nothing has been done in this case to infringe upon that right in the slightest degree; in fact, the attempt has been made just to the contrary, and to eliminate those who would be incompetent for one reason or another. But as I stated yesterday, several of the jurors were excused because they had occupations which the law says is an exemption that entitled him to be excused, quite a great number were excused upon that ground; others because of sickness, a large number because of sickness; others because of sickness in their families and others for business reasons. I think none—and in that I have been somewhat surprised—that none have been excused because of any activity in political campaigns. There are some who have answered that they were politically active, but at the same time presented other grounds that entitled them to exemption. There was one unfortunate omission on the part of the Clerk, unfortunate so far as the record was concerned. It was only as a matter of record however. An order was made in open Court, on the 3rd day of January, that an additional panel of jurors be summoned. The order was written and

signed. Through some oversight it was not entered by the Clerk upon that day. Pursuant to that order an additional panel of jurors was drawn on the 5th of January. The omission was not discovered until a later day, I do not remember the exact date at this time, but at any rate upon that day an order was made to enter the original order which had been made nunc pro tunc. As I say, that is a mere matter of form, but it was unfortunate that it should occur. It is nothing that in any way invalidates the action of the Court which was actually taken, and the record as it stands now speaks for itself and speaks the truth in that regard. For these reasons the challenge to the array will be denied and an exception will be noted to the ruling of the Court.

A jury having been empanelled and sworn, the case for the Government was opened by Mr. Dailey. In the course of his opening Mr. Dailey stated to the jury:

"This indictment names one hundred and thirty-five defendants. One hundred thirty-five are not on trial before you. There are eleven cases as I recall it, that it will be unnecessary for you to consider, I mean eleven defendants. The defendants in the case are scattered almost over the entire state of Michigan. In reading the indictment it will not be necessary to read the names of the defendants. The names of the defendants ought to be given to you one more time and you ought to be informed as to those defendants who are eliminated. That I shall do by calling your attention to a map of the state of Michigan, showing you the name of the defendant in connection with the county in which he lives, so that there will be—we can make some effort now at getting at the geography of this scheme and plan.

"One of the defendants among one hundred and thirty-five has never been arrested. One of them was unable to come here for trial. Nine have terminated their cases by pleas that have been entered."

Mr. Littleton on behalf of the defendants, objected to this statement and asked the Court to instruct the jury to disregard it. The Court overruled the objection and refused to give the requested instruction, to which ruling the defendants duly excepted.

"Mr. Dailey: (Continuing) So that eleven of the defendants are eliminated. Now, if I may, I would like to call your attention to the names at this time so that as we read the indictment it will be wholly unnecessary to

read the names, but if the names are called once more in connection with the counties in which the men reside, I believe you will be able to get somewhat at the geography in this case. The names in the indictment do not appear in the rotation in which I shall give them to you, but I shall read the names in mentioning the county where the particular defendant lives."

Mr. Dailey then proceeded to mention the residence of all the defendants and the counties in which those defendants who resided in Michigan lived, and in so doing read the names of the nine defendants who had entered pleas of nolo contendere, James Dailey, who had not been arrested, and Elmer E. White, who was unable to attend the trial because of his illness, stating to the jury in each instance that these defendants had been eliminated, and that their cases were not before them.

Later in his opening, Mr. Dailey stated to the jury:

"Some years ago the defendant, Frederick Cody, lived in the State of Michigan, but during the time that we are talking about and for some time previous, he was located in the State of New York, his employment being that of a legislative agent for large corporations particularly."

"MR. LITTLETON: I object to that, if your Honor please, as being improper at the opening of this case.

"THE COURT: I think it may stand.

"MR. LITTLETON: I ask your Honor to instruct the Jury to disregard it.

"THE COURT: It may stand.

"MR. LITTLETON: I except.

"MR. DAILEY: (Continuing) He had a particular employment with the American Telephone & Telegraph Company, and with the American Book Company, the American Book Company being a concern in which the Barnes family was interested, and into which Mr. Newberry married."

Mr. Dailey suggested that in making up this Bill of Exceptions certain admissions made by Mr. Murfin in his opening statement to the jury in behalf of defendants should be incorporated. Mr. Murfin stated that if any portion of his statement were incorporated the entire statement should go in.

The Court thereupon ordered the entire opening statement of Mr. Murfin made a part of this Bill.

The opening statement of Mr. Murfin to the jury was as follows:

MR. MURFIN: May it please the Court and you gentlemen of the jury:

I think it is very fitting and proper, in order that you gentlemen thoroughly understand this lawsuit that we should first explain in detail, in the language of the layman, that with which these men are charged; that you should thus know in detail and not in glittering generalities, but in detail, exactly what these men did; that you should know the atmosphere under which they did it and the motives which prompted them to do that which they did. We are not charged, gentlemen of the jury, with conducting a successful campaign, having for its object the nomination of Truman Newberry and the defeat of Henry Ford. These one hundred and twenty odd men, high-grade, reputable citizens, not one of whom ever before was charged or suspected of crime; most of whom never saw the other one hundred and twenty odd before they came into this court room—are charged with combining and conspiring with a common purpose and a criminal intent, to violate a statute of the United States Government. They are not charged with fraud and corruption in the election; they are not charged with the illegal use of money; they are not charged with the extravagant use of money. These total strangers—and the majority of them never saw the other man before—from beyond the Straits of Mackinaw to the Detroit river, they are charged with combining and conspiring with a common criminal intent to violate a statute of the United States; and in the first four counts the statute they are charged with conspiring to violate is the statute that forbids Truman H. Newberry from spending his money in a campaign for election; and they are charged with criminally conspiring to aid and abet him, whom they never saw, to spend his money, which he never spent. And I say to you now, gentlemen of the jury, the proofs in this case will affirmatively show that not one dollar of Truman H. Newberry's money went into this campaign. He did—and I now jump a little ahead of my story—Truman H. Newberry all his life has had a comfortable luxurious home in which he has been in the habit of entertaining his friends charmingly and delightfully, and if you were his friend and visited Detroit he would take you to his home, he would house you and feed you. He did while he was in the service of his country in New York, live at a hotel and on more than one occasion, perhaps a half a dozen occasions, he, in the spirit of hospitality, for which he is noted, paid the hotel bills of his guests, aside from that not one dollar of Truman H. Newberry's money went into this cam-

paign. These men, total strangers to him, are charged with combining, with a criminal purpose to encourage, aid and abet him to spend his own money. Those are the first four counts.

The fifth count is what we generally call the election count. During the middle of this campaign, gentlemen of the jury, in the middle of the election, October 16th or 18th,—my memory is at fault on some of these dates, there are so many—a law passed by Congress became operative with respect to bribery and corruption of elections. The fifth count covers the charge that these men conspired to violate that law. Gentlemen of the Jury, the proofs will affirmatively show that after the primary the Newberry organization so-called, went out of business, there wasn't any; the election campaign for the entire Republican state ticket was taken over by the Republican State Committee, and if anything was done by the Newberry organization after the primary was over, my diligence, my knowledge of this case, and my examination of the witnesses fails to find anything of it, and I shall be surprised if any proof is offered under the fifth count in this indictment.

The sixth count, gentlemen of the jury, charges these same men, one hundred and twenty-three of them, who never saw each other before—who are men of the highest standing in their community, with combining for a common criminal purpose and intent to use the United States mails to defraud.

That is the charge in the sixth count.

Now, before I get through, gentlemen of the jury, I will show you a tremendous use of the United States mails, a voluminous use of the United States mails, a use of the mails running into thousands of dollars for stationery and postage—not to defraud anybody, but to defeat Henry Ford and elect Truman H. Newberry. And in order that you men may properly appreciate the absence of a criminal intent, and the absence of any criminal motive on the part of these men, and in order that you may understand the viewpoint and partisanship which they exhibited —for this, gentlemen of the jury, was a red hot campaign, don't forget that—I want you to go back for a moment to an appreciation of the situation at the time this campaign was at its height. We were then at war, gentlemen of the jury; our country had been at war a little more than a year, and up to that time, if you will think back, we were not doing any too well; we were patriotic, we were Americans, we were ambitious, but we had not gotten a thorough good start. Feeling was running pretty high; men who were red-blooded, virile Americans, admired red-blooded, virile Americans, and they

did not admire men who were not red-blooded, virile Americans. Truman H. Newberry had always been a militant American. He was on the Yosemite as a sailor at the time of the Spanish-American war, the only ship in the United States Navy in that war that in battle overcame a superior force, and that gained medals and prize money for so doing.

At this time, as I was saying, gentlemen of the jury, our country was at war and feeling on that account was high. It was because of that situation, I think entirely because of that situation, that some of the men enlisted their services in this campaign in the way in which they did.

While it had been rumored for months that Mr. Henry Ford would be a candidate, his candidacy was formally announced on the 14th day of June, the most critical period in the history of this war.

Now, as his Honor very aptly says, and I have no intention and I think your Honor knows I have no intention of discussing the merits of candidates, but that situation brought about a condition and a feeling that was bitter in the extreme, gentlemen of the jury, because there were men, whether rightly or wrongly, honestly, conscientiously and patriotically preferred the militant candidate to the non-militant candidate, and that was the motive, gentlemen of the jury, that enlisted the services of the overwhelming majority of these respondents in this campaign.

Moreover, it will appear in evidence that it was the opinion of those actively in charge of this campaign that Mr. Henry Ford was one of the greatest, if not the greatest, advertised man in the world. Certainly there was no man in Michigan any more advertised than he.

Gentlemen of the jury, I will come now to the origin and inception and the beginning of this campaign.

Mr. Newberry was in the naval service stationed at New York; was not in Michigan from the time he went into the service of his country in May or June of 1917 until after the armistice was signed, specifically the holidays of 1918, long after the primaries and election. While Mr. Newberry was so in the naval service of his country the proofs will show to you that in August, 1917—now I am going a considerable ways back because I want you men to know all there is to it.

In August of 1917 there was a meeting in Michigan attended by some prominent Republicans, politicians and office holders. There was a lawyer; there was a banker; there was a publisher; there was a business man; there was a soldier; and

there was a Governor of a State. These men went over the situation. It was rumored that the senior Senator from Michigan, the Honorable William Alden Smith of Grand Rapids, was about to retire. They went over the situation as to the condition of the country, as to the condition of Michigan and canvassed, as frequently men do canvass, who would be a good man to back in the United States senate. They considered other names and finally decided they would urge the name of Truman H. Newberry to run for that office. These gentlemen, after their conference, having considered the merits, or demerits, as the case may be, of other men, reached the conclusion that they would send word to Commander Newberry that in the composite judgment of this little group they thought he should be a candidate of the Republican party for United States Senate. They communicated a result of this meeting to Commander Newberry in November. The proofs will show that he deprecated the idea; that he said to their messenger, " I could not be a candidate, it seems to me, while I am in the Navy. If I were a candidate, I could not be active. The fact that this small group compliment me in this manner is no idea there is any demand for my candidacy." And he was disposed at that time, and frankly disposed, not to consider it and discouraged its further thought.

Substantially the same group at a subsequent meeting went over the situation, and it appeared that some of them, at least one of them, had changed his mind about Commander Newberry. This fact was communicated to Commander Newberry in New York and he then supposed that the thought from Michigan that he become a candidate of the Republican party for the United States Senate was at an end and he dismissed the matter from his mind and thought, and for a brief period the matter was at an end.

Later on in either December or January—I mean to apologize gentlemen, there are so many names and dates I can't assume the greatest accuracy, though I am going to try and do the best I can. Either in December 1917 or January 1918, as my memory serves me now—I will refer to a letter in a moment—another meeting was had. That meeting was held in Detroit.

It was attended by men from the Upper Peninsula and the Lower Peninsula, by men prominent in many walks of life and prominent in state politics, and at that meeting these men determined, "we must persuade Commander Newberry to become a candidate for United States Senate." And they sent word to Commander Newberry in New York by messenger, one of

their party going down, and putting the proposition up to him.

One of the first things he did thereafter—and when the time comes that matter will be read to you—was to write a personal letter—this was before the act of Mr. J. Hayden's—to that I will refer in a minute, he wrote a personal letter to Mr. George E. Miller, at that time the Washington Correspondent of the Detroit News, today the managing editor of the Detroit News in Detroit—and they were on such intimate terms that the letter is addressed, "My Dear George," and in that letter he frankly set forth to Mr. Miller the efforts of the friends at home to get him to run; deprecated the thought; pointed out his views about a man in the navy running; talked about his patriotic duty to serve his country there; referred to his previous public service, and frankly asked George E. Miller—I think the letter will show that he asked him two questions: "Do you think there is any sentiment at home for me to make this sacrifice?" And, "What is your judgment as to what I ought to do?" That letter was answered very frankly by Mr. Miller in which Mr. Miller pointed out that because of war conditions a military candidate was desirous. He pointed out certain weaknesses in Mr. Newberry's position and certain elements of strength. The letter when read to you will show that Mr. Miller was non-committal, but pointed.

Now it was after that letter had been written, after Commander Newberry had frankly inquired from this man who was his friend he thought—since it is found that he was wrong—after he had inquired from the Washington newspaper man, who of all men ought to know sentiment and condition and things of that sort, that Mr. Cody did go to Washington to get from Mr. George E. Miller face to face and not in black and white, face to face and not in black and white, what Mr. Miller thought of the plan from Michigan to get Commander Newberry to run for the United States senate; was there sentiment in Michigan for Commander Newberry? Was it his duty as an officer in the navy to respond to that sentiment if it existed? And George E. Miller frankly told Mr. Cody that he had been the Washington correspondent for so long that he did not know Michigan sentiment, but that his assistant, Mr. Jay Hayden, who had not been in Washington very long, he thought knew Michigan conditions, and he thought that he would give Commander Newberry the information that he wanted, as to whether there was a respectable sentiment in Michigan in favor of Commander Newberry's running for the United States Senate. It was because of that reference of George E. Miller, the present

managing editor of the Detroit News, then the Washington correspondent of the Detroit News, to Mr. Jay Hayden, that Cody did at Miller's suggestion ask Hayden to come to New York for a conference; not to manage the campaign which was not then in existence, but to tell Commander Newberry, was there any sentiment in his, Hayden's judgment in Michigan back of this movement? Was there a reasonable chance of his being successful, and were there possible other candidates and all that?

And Hayden came to New York in response to that request for that purpose, and not for the purpose of being asked to become manager of a campaign not then in existence.

It will further appear, gentlemen of the jury, in this case that after the Miller correspondence and after the Miller interview and before Jay Hayden saw Commander Newberry, Mr. Cody told this to Mr. Jay Hayden, the then managing editor of the Detroit News was a man named E. G. Pitt. He either had just started or had gone to Europe on some alleged mission for his paper. At that time nobody knew the details of the trip. Mr. Cody happened to have a confidential source that he had gained information, and knew something about it, and he said to Hayden before Hayden saw Commander Newberry: "Do you know that Pitt is through with the News?" Hayden said, "I certainly did not." Mr. Cody says, "He has. He has sent to Europe, and within a very few days, Mr. George E. Miller will be made the managing editor of the Detroit News and it looks to me as if you then will be the Washington correspondent of the Detroit News."

Now, gentlemen of the jury, it will appear in evidence, if necessary,—if not you may know it—the Washington correspondent of a metropolitan daily is an honorable employment and an attractive job. Mr. Hayden knew before he went to see Commander Newberry that within a very few days he was going to be the Washington correspondent of the Detroit News, and Mr. George E. Miller would be in charge of the paper at Detroit.

The only thing about which I think this testimony will agree with Mr. Hayden, he did in the very brief talk and I may add very unsatisfactory talk with Senator Newberry, refer to a barrel campaign, and the Senator did say that he disapproved of such a thing. There was at that time, I think the evidence will show, no thought or talk of hiring Hayden, and certainly there was no thought or talk on Hayden's part of being hired because he had a better job in front of him.

Now what happened? The Commander determined that although he could not be active, although he could not give a directing hand and although he could not come to Michigan to participate in the campaign, if the gentlemen wanted him to run, he would run. Therefore Mr. Allan Templeton of Detroit, Michigan, a prominent manufacturer in the city of Detroit, a large employer of labor, at that time the president of the Detroit Board of Commerce, who was acting with one enterprise with which Mr. Newberry was a stockholder, became chairman of this businessmen's committee to encourage and foster the campaign of the Hon. Truman H. Newberry.

Mr. Templeton—I can't give you the exact date, if my memory serves me it was in March—arranged with Mr. Frank W. Blair, the President of the Union Trust Company of Detroit, Michigan, I think the first Trust Company founded in Michigan —arranged with Mr. Blair to act as treasurer of the Newberry Campaign Committee. Frank W. Blair agreed so to act and did so act; and when I come to the details of what he did, I will explain to you, gentlemen of the jury, in detail how he did it, what he did, the method he employed and the whole matter. I am trying now to give you a general outline of the whole situation.

Thereafter Mr. Cody came to Michigan in conference with Mr. Templeton, and I think one other man; canvassed the situation, and Mr. Paul King was urged to take an interest in this campaign. Mr. King wanted to take the matter under advisement, and the proofs will show he so stated. He wanted to talk with his wife. He wanted to talk with his business partner. He wanted to talk with Judge Clyde Webster, at one time United States District Attorney in Detroit, now Circuit Judge there, and he wanted to talk to Judge Arthur Tuttle, United States District Judge of the Eastern District of Michigan, the two men who were very active when Mr. King managed the campaign of Senator Charles E. Townsend. He wanted the judgment of those men before he gave his answer whether or not he would undertake this mission.

After he had talked with his wife, had talked with his business partner, had talked with his friends, Judge Webster and Judge Tuttle, he announced that before he went into it, he wanted to talk to Commander Newberry, and he went to New York for a conference with Commander Newberry, and you will hear from him an interesting story of the introductory remarks of that conference.

I think about the first thing he said: "Commander, I don't

know whether you want me to be interested in your campaign or not." The Commander said "Why?" Well, he says, "If you remember, at the time of the Bay City convention when you were a Roosevelt man and I was a Taft man I kept you sitting on the curbstone instead of on the platform." They had a laugh about it. The Commander reminded Mr. King that he afterwards did get in the Bay City Convention in the back door and got a seat in the gallery in spite of Paul King and the Taft men, and the Commander said that he would be very glad to know that Mr. King would be actively interested in his campaign.

At that time the Commander frankly put up to him these two questions: He said "Would you expect compensation for doing this work?" And Mr. King said "I certainly would not. I have never politically worked for compensation and I never will. I have just opened a law office in Detroit. I understand through Mr. Templeton that there will be businessmen connected with this campaign, prominent in all walks of life, that will put me in touch with men who might some day be feeders in my law business, but nobody can pay me for handling a political campaign." The Commander said "How much did it cost Senator Townsend's friends to nominate and elect Senator Townsend?" Mr. King said it cost a little over Twenty Thousand dollars, but "Commander, it will cost your men more than that, because Senator Townsend has been a Congressman, had been on the stump, and you are not as well known as your prospective opponents, and I judge it would cost two or three times as much money from your friends as it cost from Senator Townsend." That was the sum and substance of that talk. Mr. King then came back to Detroit and started in to perfecting his organization, and one of the first things Mr. King did, gentlemen of the jury, was to take legal advice as to what was the Michigan law with respect to the handling of a primary campaign, and while I do not intend to bore you with reading law I want to call your attention to the paragraphs of the Michigan law upon which Mr. King took legal advice, and which book he had before him as the proofs will show throughout this campaign, as his guide, to determine what was lawful to do in this situation and what he could not be required to do in this situation.

Now, gentlemen of the jury, Mr. King had before him this section of the Michigan state election law; he had before him a legal opinion as to his rights under this section of the Michigan election law, and it reads as follows:

"No candidates and no treasurer of any political committee shall pay, give or lend, or agree to pay, give or lend, either directly or indirectly, any money or other valuable thing for any nomination or election expenses whatever, except for the following purposes."

I challenge your attention to the fact the amount is not mentioned, is not limited. It simply says the committee or the candidate may not do anything except for these purposes.

First, For traveling expenses and personal expenses incident thereto, for printing, stationery, advertising, postage, expressage, freight, telegraph, telephone and public messenger services;

Second, For dissemination of printed information to the public.

Third, For political meetings, demonstrations and conventions;

Fourth, For the rent, maintenance and furnishing of offices;

Fifth, For the payment of clerks, typewriters, stenographers, janitors, and messengers actually employed;

Sixth, For the employment of challengers at primaries and elections, to the number of allowed by law as such;

Seventh, For the payment of public speakers and musicians at public meetings and their necessary traveling expenses;

Eighth, For copying and classifying of election registers, or poll lists, and investigating the right to vote of the persons listed or registered therein and conducting proceedings to purge the registers and lists, and prevent improper or unlawful registering or voting.

Ninth, For making canvasses of voters;

Tenth, For conveying infirm or disabled voters to and from the polls.

Eleventh, For employing as counsel, attorneys, licensed to practice in accordance with the laws of the State and for the necessary expenses of such counsel.

Now, gentlemen of the jury, Mr. King had that section of the Michigan law before him constantly. He had received legal advice as to the construction of it, and he organized, I believe, we will prove to your satisfaction what will be the most perfect political organization certainly this State ever knew, and in that organization the proofs will show to you that aside from Mr. Blair, Mr. Templeton, Mr. King and Mr. Chilson, every man connected with the staff of the organization was paid for the time he rendered His services in this case, and there never was any doubt about it, camouflage about it, question about it, or hiding about it or secret about it, and there never

will be. The first thing Mr. King did was to organize what he called his Publicity Bureau. In the Publicity Bureau there was Mr. Hopkins, Mr. Phillips, Mr. Dunn and Mr. Haskins. All of these men had been active newspaper men in their day. Mr. Haskins later on in the campaign moved to Grand Rapids and later was more of a field agent perhaps than a Publicity man, and Mr. Hopkins, Mr. Phillips and Mr. Dunn, on salary, with a staff of stenographers and with a suite of offices in the Ford building and proceeded to give to the merits of Truman H. Newberry and his candidacy the widest possible publicity. If there was any paper in the State of Michigan that did not receive advertisements my attention has not been called to that paper, and the leading metropolitan dailies, four of whose reporters are subpoenaed here on behalf of the government, and who will give you their testimony, received over $4200.00 worth of the defendant's money for advertising in this campaign. That is a mere sample of the character and extent of the effort to which this Publicity Committee went to bring the name of Commander Newberry before every party in the State of Michigan to whose attention it could be brought.

I think that there were two statements made by Mr. Dailey that require explanation and correction with reference to the publicity campaign. I refer to a farm paper in Saginaw. While I am on this subject I will refer to it, the Saginaw Valley Farmer. He referred to the tremendous and unusual amount of advertising the Committee gave the Saginaw Valley Farmer.

I think advertising was given to between four and five hundred papers and Mr. Phillips and Mr. Hopkins in the Publicity Department thought that the Saginaw Valley Farmer was a weekly paper, when it was a monthly paper, and every week they sent the Saginaw Valley Farmer the advertising matter, and the Saginaw Valley Farmer with a degree of thrift that is characteristic of most Americans accumulated it from week to week until the monthly time came to run it in the monthly issue. That is a mistake made in the Publicity Department for which Mr. Dailey said the proprietor should be indicted. He refers also to the advertising—

Mr. Dailey referred to the fact that the Committee placed an advertisement in the Abend Post, a German paper edited in the city of Detroit. The facts are, and the proofs will conclusively show, that Mr. King and that Mr. Hopkins and Mr. Phillips and all of the publicity men discussed the desirability and feasibility during this war times and in the heat of this patriotic campaign, of advertising in the German papers, and

ey declined to advertise in the Abend Post and if an advertisement appeared in the Abend Post—and I frankly, have had o time since last night to investigate the details of the facts, ey did not come from this committee.

I assume it must have appeared, but if it did, the proofs will how, gentlemen of the jury, it did not come from this committee.

Now, what else did Mr. King proceed to do? He not alone pened these headquarters in Detroit; he caused to be opened Wayne County headquarters. Wayne county, you all will recall, is a very large county in the State of Michigan, and they ad headquarters of their own. After going to the Western art of Michigan, headquarters were opened here in Grand Rapds. There was no secret about it. These headquarters were pened, stenographers were employed, clerks employed and paid, office rent paid and so on. It was proposed, and an effort was made, to have a Newberry organization in every single voting precinct in Michigan except in Chippewa county. Chippewa county was the home of the Hon. Chase S. Osborn who was one of the candidates for the nomination, and it was thought as a matter of courtesy they would stay out of Chippewa county, but an honest and conscientious effort was made, gentlemen of the jury, and the proofs will show to you most every single voting precinct in the State of Michigan had in that voting precinct, be it a precinct in Detroit or a township in Kent County or in Gogebic county or Ontonagon county—there was some man or men whose primary duty it was to advocate and encourage the nomination of Truman H. Newberry in the primary held in August of that year. I think the proofs will show that with but what limited exception that was done. Each county had its county chairman. He was paid generally for such little time as he needed to furnish, furnished expense money to tour the county or district with literature, collect lists, post packages, and things of that description. They had secretaries. Each county organization was urged and requested to go to each township and perfect a township organization, and in a great many cases, the overwhelming majority of cases, they did so. There was no secret about it at any time, I think, as the proofs will disclose, gentlemen of the jury.

Now, in addition to that Mr. King himself toured this State and personally interviewed man after man, man after man, and man after man, and in connection with that, the proofs will show, one of the most ingenious political campaign schemes that I think I ever heard of, Mr. King took with him a stenog-

rapher, Mr. Silsbee. Mr. Silsbee, the proofs will show to you is not a politician. I do not even know whether the proofs will show as to his politics; I have not asked. He applied for and received the job of stenographer, and is one of the indicted men, and he was the gentleman who took Mr. King's dictation at nearly all times.

Mr. King took him around with him. This is what Mr. King would do, and these letters in time will be read to you, gentlemen, a great many of them, and I will just illustrate without giving any of the details or names, because I have none of the letters before me, and it would not be proper if I had them to read them, but this is the system—Mr. King—it might be eleven o'clock at night; it might have been three o'clock in the morning when he was touring the State, would sit down and write to Commander Newberry in New York, "I spent today in Houghton county, and this man I called upon was Mr. John Jones; he is a banker in this county; I knew him when he was a delegate to the Constitutional Convention, and I was Secretary of the Constitutional Convention. I was pleased to learn he was enthusiastically in favor of your candidacy. He took me over and introduced me to Bill Smith. Bill is the present Sheriff of this County. He was in the Legislature when I was clerk of the House. I was pleased to learn that Bill has been favoring your candidacy and proposes to do all that he can do. From there we went and called upon the Mayor of the Town, Mr. Salisbury; I am sorry to say the Mayor of the town is tied up to Osborn. He probably will do all he can for Osborn. From there we went to call upon Bill Smith the County Clerk. Bill is an enthusiastic Newberry man, for this reason, that reason, or the other reason, and so on.

Letters that were from two to eight pages long gave the reasons why each man interviewed was for Newberry, or against him, told his business, told his address. Then what was done? A copy of that letter will be sent to the Detroit headquarters where they had a series of forms dependent upon the character of the man and the type of work the man was going to do; if the man was going to become a county chairman they would use form number so and so; if he was going to become a county secretary, they would use form number so and so; if he was merely an interested Newberry man, like a good many other people were, official position, they would use form so and so, and these stenographers, 30 odd in number at one time, would take the copy of Mr. Paul King's letter to Commander Newberry and they would write a letter purporting to be from Com-

mander Newberry to Bill Smith, Tom Jones, John Doe and Richard Roe, of Houghton county, and those letters prepared in the Detroit office would be sent to New York in groups for Mr. Newberry to sign and send out; so that the man on whom Paul King had called in Houghton on we will say the 8th day of July, about two weeks later would be agreeably charmed and surprised to receive from Commander Newberry a letter postmarked from New York, signed by the Commander, saying "I am pleased to learn from Mr. Paul King that although I haven't the pleasure of your acquaintance, you view my candidacy with approval" and so on.

They had a series of these form letters; Paul sent them out, the office sent them to New York for the Commander to sign and send out, and there is no doubt about that fact that the State of Michigan was flooded with this personal type of literature, that purported to be personal in that fashion, to bring home to every man whom Paul saw or talked to, or anybody else, the thought and the fact that attention had been brought to Commander Newberry; while he could not be active and was not active, he did get these reports from time to time, was kept advised as to the men who were called upon, was kept advised as to what these man said and did, and letters were prepared in Detroit for him to sign and send thanking these men for their interest in his behalf and in his candidacy. I won't assume to say, gentlemen of the jury, how many of these letters there were sent out, but my guess would be that it would run into the thousands, that is my guess, I cannot assume to say with accuracy.

As Mr. Dailey has very properly said, to supplement this work of county organization and township organization there were what were called "field" men, who travelled around from county to county and county to county and stirred up and jacked up the men in the county, kept them posted as to what was going on in the Detroit headquarters, and encouraged them to go on with the outside work in the county; have you organized your townships, what was the sentiment? etc., and they went around doing that and they did it until the time of primary, after which time and when the primary was over, as I say, this elaborate, intricate detailed Newberry organization, went out of business; The State Central Committee took charge of the campaign, and so far as the activities of the bulk of these respondents is concerned at that time, their activity ceased.

I think it but fair to state that some of these men in the Detroit office did afterwards become affiliated with the Republican State Central Committee in connection with the work of the Re-

publican State Central Committee, but the Newberry organization, the Newberry political organization as such went out of business at the time of the primary.

Now, gentlemen of the jury, I think I have outlined to you in as much detail as my time will permit the general outline of this political campaign which as I say was a very warm and a very hot campaign. I want to speak of one phase of it while I think of it and before I forget it: I don't know how many of you are familiar with the Michigan primary law but the most of us know that there is nothing in the Michigan primary law to prevent a Democrat if he wanted to do so, voting in the Republican primary. Mr. Ford was running upon both tickets, his name was presented to the voters to be nominated on the Democratic ticket and his name was presented to the voters to be nominated on the Republican ticket. Mr. Helme's connection with this campaign is interesting, but simple. Mr. Samuel Odell at that time the State Treasurer of the State of Michigan, had no active part with this campaign, was not connected in any way either officially or otherwise with it, suggested one day to Mr. Paul King, why wouldn't it be a good idea to have some democrat run against Mr. Ford and make the democrats vote in their own primary instead of coming into the republican primary and voting for Ford there. Mr. King thought that was a good idea. Mr. Odell then said in substance, and I cannot assume to quote all of this testimony in detail, but he said in substance: I know Senator Jim Helme very well, and I will put the bug in his ear, for he never did like an organization democrat, and this looks like it would appeal to Jim Helme. Sam Odell the then State Treasurer had that talk with Paul King, I think the proofs will show that is the only talk he ever did have with Paul King. At any rate on a subsequent occasion in Lansing, in a brief—not long but a brief talk, Mr. Sam Odell did meet former Senator Jim Helme who at a subsequent date has been Dairy and Food Commissioner, now is the editor of the Michigan Patron, I guess he has been the editor of the Michigan Patron for some years, Mr. Odell stated to Jim Helme in substance and effect: Are you going to let the organization democrats run away with us and not put up any opposition to it; and he implanted in Jim Helme's head the thought that it wouldn't be a bad idea to kind of knock the ticket by runnng an opposition man. I will say the proofs will show when Mr. Helme comes on the stand that he has never been what is known as an organization democrat, sort of an off horse kind of a democrat; but there was no agreement then, there was no bargain then, there was no conclusion

nen, and gentlemen of the jury, that is all Sam Odell had to do ith this case and the proofs will affirmatively so show.

Now, thereafter, Mr. William Mickel, who had been a deputy ood inspector, or a food inspector when Mr. Helme was food ommissioner was urged and encouraged to get Mr. Jim Helme o run on the democratic ticket for the sole purpose, as Mr. King nd Mr. Floyd explained, and the proofs will show, of keeping he democrats voting in their own primary, and they did finally ork Jim Helme into running; but the proofs will also show hey did not pay Jim Helme one dollar and that instead of get- ing any money, he had whatever pleasure there was in having is name put on the ticket, through the Newberry organization. They circulated a petition, they got his name on the ticket, for hat reason and for that purpose, but he was not hired to run, he was not paid to run and he never got a dollar for running, but I think the proofs will satisfy you, gentlemen of the jury, he was worked to run. So much for the Helme situation.

Now, I want to call your attention, and I cannot go over in detail what each one of these 123 men did, but as far as I can I am going to tell you some illustrative activities.

I have told you all that the proofs will show that Sam Odell did. I have told you all that the proofs will show that Senator Helme did. Now, I want to come to what the proofs will show John S. Newberry did. John S. Newberry is the only brother of Senator Truman H. Newberry; he is the younger brother of Sen- ator Truman H. Newberry; the proofs will show that the older brother, Senator Newberry, has been the head of their business, the so-called head of the family and has taken the burden for years and years of looking after the intricate business details, and the proofs will also show these brothers are peculiarly and charmingly affectionate brothers, which has enabled John S. Newberry to live comfortably and in affluence. The proofs will show John S. Newberry not only affectionate and fond of his brother but grateful to his brother. The proofs will show that he was the largest individual contributor to this campaign. The proofs will show however that before the campaign started Mr. John S. Newberry is likewise in the Naval service of his country, I think his rank was an ensign, I am not certain, I don't carry these ranks in my mind, at any rate he was not in Detroit, he was stationed at the Great Lakes Training station in Chi- cago for a period of time; he afterwards was on some training ship on the lakes for a brief period; he afterwards was at a naval training school in Indiana, and aside from coming to Michigan once to attend the funeral of a brother-in-law, which kept him

there one day, John S. Newberry was never in the State of Michigan from the time the campaign started until after the primaries were over; he never was in the Newberry headquarters. He did however authorize his bank account to be used for the benefit of this campaign, and that is all he knew about it, he didn't even sign the checks, he didn't know how much was used, he wasn't even here; he never wrote a letter; he never got a letter and he knew nothing about it until after the primary was over and his brother was nominated and elected. That is John S. Newberry's connection with this situation.

I think I have told you about Mr. Paul King. I now want to refer to his business partner, Mr. Mark T. McKee, who is not in court, has a cold, although he is one of these respondents as is pointed out. Mr. McKee is Mr. King's business partner. The proofs will show this to be his connection with this: When Mr. King was asked to handle the Newberry campaign, the first person he conferred with on the subject was Mr. Mark T. McKee, his business partner; they went over the situation and before it had been determined or at least before it had been announced. Mr. Mark T. McKee, who is a close personal friend of the Governor's, as it will appear, went to Lansing to confer with Governor Sleeper on that situation, Mr. McKee under appointment by the Governor or the War Board or whatever they call it, was the active chairman and head of the Red Cross drive that was being held from time to time. The Governor pointed out to Mr. McKee if he became active in this campaign, it would seriously interfere with his work on behalf of the Red Cross work in the State and that in his judgment he ought not to permit anything to interfere with that work; and the testimony will show you that the Governor asked Mr. McKee to have nothing to do with this campaign. The proofs will show that Mr. McKee promised the Governor he would have nothing to do with this campaign, and the proofs will show to you that he had absolutely nothing to do with it. There was one man, one respondent who either gave Mr. McKee as a reference or in some way Mr. McKee at one time said to Mr. King: Yes, I know this man, he ought to be helpful to you. Aside from that and the fact that one evening he called at headquarters to take Paul King to dinner, the proofs will affirmatively show that is all Mark T. McKee had to do with this campaign at any time. He never wrote a letter, he never made a speech, he never handled a dollar. He suggested either voluntarily or in answer to an inquiry, it is not clear in my mind, that one respondent might be of some assistance, and he called at headquarters once to take Paul to dinner.

Now, Mr. Chilson. Mr. Chilson was at one time—for a long time rather, secretary of the State Central Committee. It will appear that he had frequented under the auspices of the Republican State Central Committee and been actively in charge of so-called Speakers Bureaus. It will appear in evidence that the Newberry organizations, specifically Mr. King, wanted somebody to take charge of their Speakers Bureau. Mr. Chilson had been in the ladder business in Ann Arbor; when the war came on there wasn't any great demand for ladders and the proofs will show that Mr. Chilson's business at that time did not require as much of his attention as the ladder business in peace time would require, and he came in and took charge of the Speakers Bureau, and expressly stipulated that he would not take compensation for so doing; Mr. Chilson was not on the payroll. He handled the Speakers Bureau, and I might say, but I am not certain whether it was during the primary or during the election, but he had charge of the Speakers Bureau for the Republican State Central Committee at one time or another, we were in the midst of the "flu" epidemic of a year ago and the Speakers Bureau was not a very active Bureau, but aside from two trips to stir up county chairmen, Mr. Chilson's principal and primary work was sending speakers here, there and other places, and that is all he had to do with this campaign; and in that connection it brings me to the case of the respondent George S. Ladd of Massachusetts, not a resident of Michigan, and I want to tell you exactly what the proofs will show with respect to Mr. Ladd. They will show first that he has been an active prominent official for a long period of time in the Massachusetts State Grange, enjoying the confidence of his fellow citizens and the men active in that movement, and in receipt of substantial honors at their hands. It will show that a few years ago when Wayne county had a movement on to bond the county to produce better roads for Wayne county, to start the splendid, magnificent Wayne county road system of which we are now so proud down there, that the Board of Commerce of the City of Detroit that was active in boosting this Good Roads movement in Wayne County through other parties, learned of the ability of Mr. George S. Ladd and Mr. Ladd campaigned in Detroit and Wayne county a number of years ago for this good roads movement, and in that way the proofs will show he learned to know and become intimately acquainted with one Horatio S. Earle. Here is what the proofs will show were his connection with this campaign: In the middle of the campaign he received in Massachusetts a letter from his friend Senator Earle asking him to come to Michigan,

that he, Earle, wanted to talk to him, Ladd. He came; he saw Senator Earle. Senator Earle, the proofs will show, said to him in substance and effect: "We have got a peculiar campaign on here; Mr. Ford is running against Commander Newberry; the war is on; a great many of us do not think Mr. Ford is the proper man; a great many of us think Mr. Newberry is, because of his views on the pending questions. Will you as a favor to me go out, as a patriotic duty, and make some speeches for Commander Newberry, because of the patriotic side of this campaign?" And Mr. Ladd said, in substance and effect: "Senator Earle, anything within reason that you want me to do as to this matter I will do."

Thereupon Senator Earle took Mr. Ladd to Mr. Chilson, introduced him to Mr. Chilson, and that is the first time that Ladd ever heard of Chilson or anybody else in connection with this campaign, the first time he was ever in headquarters, that is how he got there. Mr. Earle explained to Chilson how he had come to send for Ladd and what he had talked to him, and Chilson said I am very glad, and as from time to time I hear of meetings I will send you out. After he had been doing this about three weeks he was called back to Massachusetts and had to go back. He came to Mr. Chilson and he said, "I have been working three weeks or better; I am called back to Massachusetts; I think I have done you all the good I can do." I don't know how many speeches he made or where he spoke. He said I must go back. Chilson was very grateful. Then and not until then the proofs will show, was there any talk whatever about compensation for Mr. George S. Ladd. Chilson then said to him, in substance and effect: "Mr. Ladd, we don't want you to do this for nothing; there is no reason why you, a member of the Massachusetts State Grange, should come here at your own expense and do this for nothing; I think you ought to be compensated." Mr. Ladd said: "I came here in response to the request of my friend Senator Goodroads Earle, and I told him I was coming to do this for him, but if you want to pay me my expenses I shall not object;" and he was given a draft for Three Hundred and Fifty dollars, which he cashed and went back to Massachusetts.

That is the connection that George S. Ladd of the Massachusetts State Grange had with this campaign.

Now, I come to another indicted man, Mr. C. L. Sibben. I intended to inquire what the proofs would show as to his politics, but it escaped me and I can't give it to you. When Mr. King was opening his headquarters in the Ford building he had inquired of a former friend connected with the Pere Marquette

Railroad when Paul King was Receiver of the Pere Marquette, did he know of a stenographer. About the time that this inquiry was made of his friend Mr. Sibben went to this friend in the Dime Bank Building and applied for a job. The man said: "I know the very fellow that is looking for a stenographer; go over and see Paul King." Sibben went over to Paul King and applied for the job, was given the job originally at thirty-five dollars a week, afterwards raised to fifty, and I heard afterwards his title was raised from stenographer to private secretary. He took all the letters and correspondence that Paul King dictated; he went with Paul King on every trip, and Paul King was always writing letters when he wasn't shaking hands with people. Sibben, the stenographer, originally receiving thirty-five dollars a week and afterwards fifty, had nothing to do with this campaign but that. He never handled a dollar, never made a speech, never organized a county; he did nothing but the work that the gentleman is doing right there at the desk, except that he did it for Paul King.

Now, I am going to refer in a very brief way to the activities of one of these indicted men, Mr. Guy Ingalls, of Detroit, Michigan. Mr. Ingalls was originally a newspaper reporter in Detroit, and afterwards and for a number of years he was deputy city clerk in Detroit; and a brief period ago, I think in fact during this campaign Mr. Ingalls was elected city treasurer of the city of Detroit, and he is today the city treasurer of the city of Detroit. During this campaign he was deputy city clerk in the city of Detroit. In the city clerk's office is kept the registration lists and the poll lists of all the voters in the city of Detroit. The law of the State of Michigan makes it mandatory upon the city clerks and township clerks to furnish, I think it is at fifty cents a thousand or forty cents a thousand, I won't assume to say—the law specifies the amount of money per thousand that the city clerk shall get for furnishing copies of those lists on request. The first connection John Ingalls had with this campaign is when the headquarters wanted a list of the voters of the city of Detroit. I might say, gentlemen, if you don't know it, the list of the voters of the city of Detroit, as the proof will show, is a very large list; there was a very large number of voters in the city of Detroit. They not only wanted a list, they wanted three sets of envelopes addressed to the registered voters of the city of Detroit; and as it was Mr. Ingalls' duty under the law, or rather the duty of his chief, who was away at that time, he undertook to employ careful assistants to make and prepare from the list in the city clerk's office of which he was

deputy, those three lists, and he received a total compensation of twenty-seven hundred dollars, which just about amounts to what the law permits him to get for furnishing those lists, and he disbursed it to the clerks that made the copies for him. I think it will appear in the evidence that there were approximately half a million of voters. The law compelled him to do it; the law fixed the price he could charge for doing it. The price was not exactly fixed at twenty-seven hundred dollars. I think it will appear in evidence that he did from that office send out to other parts of Detroit some Newberry circulars and stuff of that sort. Ninety-nine per cent of the work that city treasurer Ingalls did, as the proofs will show, was to do what the Michigan State Law says you have got to do, namely: make those copies of poll lists on request, and he employed clerks to do it.

Now, I want to come to another illustrative respondent, and I do not want to bore you, gentlemen of the jury; I want to assure you I am not going to tell you in detail of every one of the one hundred and twenty odd defendants, but I am going to give you an illustration of each particular type, so that you will know the character of the men. Tom Bigger of Calhoun County was invited to one of the banquets, dinners, suppers or lunches, to which reference was made; that was at Battle Creek. At that banquet, dinner or luncheon—I have forgotten whether it was at noon or in the evening— these business men were gathered together and they discussed the Newberry situation, the Newberry campaign, and it was proposed that Mr. Bigger—he was a Newberry man, which he will explain, from proper motives, acted as chairman of Calhoun county. Mr. Bigger demurred, because he had something else to do. The proof will show that he was assured that the secretary would do the bulk of the work; so Mr. Bigger became, at the request of his fellow townsmen at this meeting, banquet, dinner or whatever it was, the chairman of the Calhoun County organization. There was sent to him, for the purpose of organizing Calhoun County, three hundred dollars. That three hundred dollars was deposited in the bank at Battle Creek to the credit of the Calhoun County Newberry organization. The exact title of the fund is neither here nor there; I can't assume to carry them in my mind, but it was a special fund for the Calhoun county Newberry organization. The secretary of the Calhoun county Newberry organization checked against this account as they needed money, and after the primary was over there was left in the bank the sum, unexpended of one hundred and forty-one or two dollars, and after the primaries the field man came over

to check up, and he found this fund there and Mr. Bigger said: "We are through, here is your money." "Oh," he said, "Turn it over to the Republican County Committee in Calhoun county."

This was done, and that was the connection of Tom Bigger with this campaign as the proof will show.

Now, Mr. Bowman of an adjoining county near at hand—Mr. E. J. Bowman, at one time was acting in the same capacity that Mr. Dailey is now, he was district attorney for this district; he is a prominent lawyer in this community; he was an active Newberry man. I think he introduced—I will have to refer to my notes to make sure—the chairman of his county was Mr. Northrup; I think it will appear he introduced Mr. Northrup and assisted in getting Mr. Northrup to act as chairman of the county organization. He attended a supper at one time at which the Newberry candidacy was discussed. He spent some little money out of his own pocket in distributing Newberry literature; he was an enthusiastic Newberry man before he got through; he never had a dollar out of it or an office, or had anything more to do with it except attending the banquet and distributing a little literature and assisting in getting Mr. Northrup to act as chairman of the County organization.

That was the connection that the former district attorney of the Western District of Michigan had with this campaign.

Now, I come to Dr. Bohn in the Upper Peninsula. He is a practicing physician in the Township of Newberry in Luce county. Newberry happens to be named—the town happens to be named after Senator Newberry's father. In the early days it will appear that he was an active lumberman in that neighborhood and the town was named after him, and because of that the villagers in that town took a pride in the Newberry candidacy. Dr. Bohn was not alone a practicing physician, he was president of the village; he was a member of the Newberry Hospital Board; he was president of its bank, and he expressed his delight in doing whatever he could do to further the interests and candidacy of Senator Newberry in that county. He corresponded some little with Mr. King on the general subject. He had nothing to do with the campaign at the primaries, because as my notes show, that is when the flu hit the country and he was busy with that. But that constituted the bulk of his activities in that county, because he was in a county where the county seat was named after the Senator's father; he was active, he was enthusiastically active; he did whatever he could to get a substantial vote out there and I think the proof will show that he did.

Now, I am brought to another situation to which Mr. Dailey referred yesterday, and I think I will jump away from these individual respondents for a moment and come to that because I had nearly forgotten it. Mr. Dailey referred to a moving picture film that was taken and exhibited. The proofs will show some very funny things in connection with that moving picture film. The proofs will show that the idea was that of Mr. Philip's of the Publicity Bureau. The proofs will show that Mr. Philips was in New York from ten days to two weeks trying to persuade Commander Newberry to go through the antics and motions in a moving picture. The Commander would have nothing to do with it; the proofs will show that he repeatedly said he would have nothing to do with it; but finally the persuasive eloquence of persistence of Mr. Philips—Mr. Philips stuck there until he did persuade and induce Commander Newberry to pose for this moving picture. Proofs will show, I think, that it was on Sunday that Commander Newberry went to this wooden battleship in the heart of the city of New York where he posed from the bridge, and the moving picture shows that trolley wires and street cars going by while he was on the battle ship, and the moving picture instead of being as Mr. Dailey said, a deceit, shows on its own label, the picture is so labeled, "The only battleship on dry land." It was foolish, it was laughable, it was absurd, but that is the story of the moving picture from the New York end. Now, let us come to the moving picture from the Upper Peninsula end; not in Delta, as the gentleman told you in his opening, I think he was in error; I think the proofs will show it was in Menominee. A plan was made to have a big rally, a mass meeting in the opera house, and not show this film for hire, but show it gratuitously, and Mr. DeWitt Brown, one of these indicted men, an enthusiastic Newberry supporter, he was enthusiastic as he will tell you, because he had three sons in the service, was asked by Mr. Roger Andrews to hire the hall and make the arrangements to hold this big meeting and it was a patriotic meeting, and he hired the hall and he advertised that there would be a moving picture; he advertised this meeting, and I think these men with some pride will tell you that it was the biggest and best meeting ever held. Mr. Andrews spoke. The admission was free. When it was over Mr. Andrews gave Mr. Brown and his associates the price to pay for the rent of the hall; that is the only money Mr. Brown ever had or handled, and aside from being active, as any citizen has a right to be, that is the connection, as the proofs will show, that Mr. Brown of Menominee had with this campaign.

Now, to give you a few further illustrations. As I said, gentlemen of the jury, I want to be careful not to tire you or anybody else out with this. Mr. Z. B. Clago of Detroit was a clerk at that time in the county clerk's office. He is now I think chief deputy sheriff of Wayne county. He was asked early in the campaign to take charge of the organization of Wayne county and establish and open headquarters for the purpose of forming an organization in Wayne county. He agreed to do so and he did so.

He rented an office in the Ford building; he had sufficient help to enable him to mail out letters, copy lists, distribute literature and keep track of Wayne county meetings, so as to advise people of where there were to be meetings and where speakers could be had. He organized early and he stayed there until the primaries were over. He had nothing to do with it after the primaries were over. His stenographers were paid I think eighteen dollars a week, two or three of them. He was paid three hundred dollars a month; he had no other money but that, except twelve dollars for the rent of an automobile. That was the connection that the defendant Clago had with this situation.

Coming down from Wayne County to Monroe county, let me refer to the former sheriff of Monroe county, Fred Cronenwett, who had been sheriff of Monroe county until a short time ago. He was asked to become active in Monroe county. I have forgotten whether he was secretary or chairman, I will have to refer to my notes; he was chairman. He was requested to organize Monroe county, as these other county chairmen were requested; he was requested to cover it with literature, get out mailing lists and have a man in each township, and he did, and he paid out in that connection to three men in the city of Monroe five dollars apiece. For that he was reimbursed, and if my memory serves me—I can't assume to carry all these details in my head—that was my memory of the amount of money that Fred Cronenwett had. But he was chairman of Monroe county and he did work for Newberry; he talked for Newberry and against Ford; he went around the county and did what he could, but his financial connection with this campaign consisted of fifteen dollars that he paid in Monroe county for distributing literature in and around that neck of the woods and in that neighborhood.

Now, I want to refer, coming back to Detroit again, with perhaps more particular reference to one of the so-called principals in this case, to Mr. Frank W. Blair. The proofs will show to you that Mr. Blair is now and has for a number of years past been

president of the Union Trust Company of Detroit, Michigan. The proofs will show you that Mr. Newberry for a number of years was a director of the Union Trust Company of Detroit, Michigan. The proofs will show you that although Mr. Blair knew Senator Newberry, he did not know Senator Newberry's brother. The proofs will show you that when Mr. Blair was asked to become treasurer of the Newberry committee, he gladly said he would do so, and after he became treasurer Senator Newberry was so informed. He got one of the standard stock letters thanking him for his interest in behalf of Senator Newberry, which letter was written from New York.

The proofs will show that aside from that communication Mr. Blair never saw Senator Newberry but once during the entire campaign; that was when he was in New York on business with Mr. H. M. Caupbell, a reputable lawyer of Detroit, chairman of the Board of the Union Trust company of whice Frank Blair is president. They were there together on business and lunched with Commander Newberry, socially, not politically, nothing to do whatever with this campaign. That is all he saw or had to do with Senator Newberry. Now what did he do? He learned that an account had already been opened in the Commonwealth Savings Bank in Detroit. He kept the original account in the Union Trust company, and this is the way he did it: as funds came from different sources, whether from John S. Newberry's office or from any other place, Mr. Blair in the first instance would deposit those funds in the Union Trust Company to this special account. Then as the Newberry campaign fund in the Commonwealth Savings Bank got low and needed money, Mr. Blair would check out from his special fund in the Union Trust company to the political fund in the Commonwealth Savings Bank to the credit of the Newberry campaign committee, a sufficient amount of money to keep that account good. The men in the headquarters, very largely I think Mr. Turner and Mr. Emery—Mr. Emery by the way is sick and is not here—the men in the headquarters originally established a very elaborate and very pretentious voucher system. They had one colored voucher for office expenses, another colored voucher for traveling expenses, and another colored voucher for advertising expenses.

After a very brief trial these gentlemen in charge of the headquarters became satisfied that their voucher system was too elaborate, too intricate, it would all break down, and they abandoned that original voucher system. Then they established what I would call a simple checking system. As bills came in that re-

quired payment, or as necessity for funds arose, these men at the office in the Ford building would prepare the checks to correspond with the bills and Mr. Blair or Mr. Blair's assistant would sign them. Mr. Blair in his office in the Union Trust company kept track of his receipts, of his deposits, and of his disbursements, I think that is all Mr. Blair did keep track of. Now when the time came to make up the report required by law the campaign, as I have already pointed out, was a very warm, heated, hot campaign. All the bills were not yet in, and telegrams were sent broadcast throughout the state in an effort to get the bills in. Telephones were used in Detroit by men at the headquarters to the various printers, the various newspapers and other people to show they thought they owed money, telling them "Get your bills in, get your bills in; we want to make up this record." Frankly, the preparation of the report was delayed until such time that they did not take time to get in all the bills, but they got in what they could. They didn't have time to get it out in shape that satisfied them entirely; they all worked hard and faithfully upon it. The county clerk's office was kept open after hours to receive it. One man worked so hard, the proof will show, all night long over the figures and vouchers that he fainted away and had to be taken home in a taxi cab. It was in that manner and under those circumstances that that report was finally prepared and filed. There are some discrepancies and changes in the report, but it is substantially accurate and a true and proper recitation and history of the financial transactions incident to this campaign. There were subsequent bills that came in that are not in that report; there were disbursements that arose afterwards that were not in that report.

I think gentlemen of the jury, aside from what I have told you the proofs will affirmatively show that Frank Blair had nothing else to do with this campaign whatsoever at all.

(At this point court took a recess until 2 p. m.)

Proceedings of Tuesday Afternoon, February 3, 1920.

Mr. Murfin: May it please Your Honor and Gentlemen of the Jury: I am very grateful to you for your patience for this long-winded, tedious explanation of our view of this case, and I want to start out by an apology. I have already checked myself up on one mistake I made this morning, which I want to correct at once. I told you that not one dollar of money came from Truman H. Newberry in connection with this campaign. Either just before the election or a day or two after the election—I haven't got the exact date, but it was about that date, Senator Newberry at my request did contribute Fifteen Hundred Dollars

to the Republican State Central Committee. I knew it and had forgotten it. Aside from that the proofs will show that he contributed not one dollar to the primary, election or in any other way whatsoever, except upon the occasion of hotel bills and the fifteen hundred dollars he contributed at or about election day to the Republican State Central Committee.

And while I am correcting some of my own statements, I want to correct a statement of my brother Dailey, and I am frank to say I think he must have made the mistake from an oversight in date.

Upon the 22nd day of September, 1919, that is a very few months ago, that was about a month before the Grand Jury was empanelled to investigate this case, the time when the investigation was under way, but the grand jury had not been empanelled, Senator Newberry was requested by Mr. Claude Hamilton of Grand Rapids, then the chairman of the Kent County Republican committee, to make a contribution of $350 to the Kent County Republican Committee. The letter was dated September 22, 1919. Note the date, gentlemen of the jury. That is more than a year after all of this trouble happened, and under date of October 1, 1919, after taking the advice of counsel, and the proofs will show that I happened to be the counsel that gave the advice, he contributed not to the Gold Star Club, which he had declined to contribute to, but he contributed by his check the sum of $350 to the Kent County Republican Committee under date of October 1, 1919; not 1918. That is the Gold Star people that my brother Dailey referred to in his opening statement.

With reference to one or two other respondents and then, gentlemen of the jury, I am through.

The respondent, Claude Vander Veen, of Grand Haven, is an insurance man in Grand Haven, who has been an insurance man in Grand Haven for a long period of time. He was an active, energetic, enthusiastic Newberry worker. I think the proofs will show that part of his activity was due to the fact that Senator Newberry had been a member of the Naval Reserve for the State of Michigan years ago and was a branch of the Naval Reserve on the west side of the State. Mr. VanderVeen was active while he was in the State for Senator Newberry, or Commander Newberry, as he then was. He held no office; he was neither chairman or secretary. He did nothing but advocate and urge by word of mouth, and his influence, whatever it was, the nomination of Commander Newberry. He never had a dollar from anybody. He never spent a dollar for anybody. He simply was a Newberry man, that is all he was; and in spite of his enthu-

son he was not even here to vote for the Commander on pri-
ary day. That is his connection, one of these respondents.
Now another respondent is here at home. I want to tell you
bout the connection of the respondent Frank D. McKay of
rand Rapids. He is a clerk in one of the courts of this city; I
m not certain whether it is Judge Brown or Judge McDonald—
am told he is clerk of all the courts. At any rate Mr. McKay
d absolutely nothing to do with the primary election, not a
hing; but when they came to choose the Kent County Republi-
an Committee Mr. Claude Hamilton was elected chairman of
he Kent County Republican Committee. Mr. Frank D. McKay
as made secretary of the Kent County Republican committee.
he proofs will show that there was a little difference of opinion
etween Mr. McKay and Mr. Hamilton. They did not work
armoniously together, and Mr. Hamilton opened headquarters
ith somebody else in charge.

Late in the campaign Mr. McKay assumed or undertook or
ok over the duties to which he was assigned, to wit: duties of
ecretary of the Kent County Republican Committee. He did
hat which the ordinary secretary of the Kent County Republi-
an Committee, or any other Republican Committee, would do,
he duties of secretary to the organized republican campaign
ommittee. That committee received not one dollar from Com-
ander Newberry; not one dollar from the Newberry organiza-
ion. At that time the Newberry organization had gone out of
usiness; they solicited funds and failed to get them. I think
he proofs will show that Mr. Hamilton advanced the bulk of
he funds that were spent, and aside from working for the en-
ire Republican ticket, of which Commander Newberry's name
as one on the ticket, that is all the respondent Frank D. McKay
ad to do, as the proofs will show in this case.

A reference was made in Mr. Dailey's opening to the state-
ment that there would be proof adduced in this case to the effect
hat at some time or other there was on the table of Paul King
money, large piles of money, if I recall his statement. The tes-
imony of Mr. King, of his secretary and the others that were
surrounding him at all times we think, gentlemen of the jury,
will conclusively establish to you that there is no foundation
whatever in fact for that charge; that while Mr. Paul King or-
anized and directed this campaign, so far as paying out money
either by currency or checks, I do not think the proofs will show
he handled a thousand dollars, and the proofs will affirmatively
show that so far as there being piles of money, nothing could
e further from the truth than that charge. I think that is what

the proofs will satisfy your minds when we get to that, and I want to challenge your attention as the proofs come into this case to this further fact: the proofs will affirmatively show as they develop in this case that while many and many an agent, and many and many a speaker, and many and many a stenographer, and many and many a clerk would pay for their time and their effort where they had to be paid for their time and effort because they could not afford it otherwise, the proofs will affirmatively show not one man was ever paid one dollar to induce him to be a Newberry man or to give his influence to Commander Newberry. The money that was spent in this campaign was spent to aid honest, conscientious Newberry men to give their time and effort for Commander Newberry. And I challenge your attention as the proofs come in to this statement, that the proofs will affirmatively show not one dollar was paid to induce a man to support Newberry and not one dollar was paid for a man's influence on behalf of Commander Newberry.

And now, gentlemen of the jury, as to the character of these respondents; and bear in mind they are charged that with a common, united criminal intent they conspired to persuade and induce Commander Newberry to spend more of his money than the law allows him to spend.

The proofs will affirmatively show that ninety per cent of them never saw Commander Newberry; they did not know Commander Newberry. The proofs will affirmatively show that every one of these respondents hitherto has borne in his community a spotless and unblemished reputation. One of these respondents is a circuit judge in this state. Many of them are prosecuting attorneys. I have not counted the prosecuting attorneys lately; I think there are eighteen, there may be thirteen. There are probate judges that are respondents before you. There are sheriffs and ex-sheriffs that are respondents before you. There are members of the legislature. There is a man who was formerly state treasurer, now a member of the Public Utilities Commission. There are many supervisors who are respondents before you. These men's characters have a bearing, gentlemen of the jury, and that is the reason I refer to the question of the intent with which they did the things they did. When men, as their character witnesses will testify before you when the proper time comes, have stood unblemished and spotless in their communities and have been honored by the votes of those at home who know them best; that, gentlemen of the jury, is the character of the one hundred twenty odd men on trial before you. And I think I would be amiss if I did not refer a

little bit to the history of the character of perhaps the principal defendant in this case. The proofs will show to you that Commander Newberry is today and for a number of years has been a prominent, successful business man in the city of Detroit. In his younger days he was engaged in railroading and logging in the northern part of the Lower Peninsula and the lower part of the Upper Peninsula. After he got his education, by rough work, he did as many another man of means did, supervised and directed work as it went along.

The proofs will show to you that he was an active participant in the Spanish-American war, serving on the Yosemite. He was a Colonel on the Staff of the late Governor Pingree. They will show you that during the administration of Theodore Roosevelt he was assistant secretary of the navy for some years, and when Theodore Roosevelt went out of office he had risen to the position of secretary of navy under Theodore Roosevelt. The proofs will show that before our country came to this world war, because of the fact that he had a Master's license and knew how to navigate a boat, because of his experience as assistant secretary and secretary of the navy, this man tendered his services before war came on to serve in any capacity, land or sea, at home or abroad, that the secretary of the navy and the commander-in-chief of our navy should see fit to assign him to. The proofs will show that shortly after we got into war he was commissioned a Lieutenant Commander. He was assigned as aid to the Admiral in the Third Naval District of New York and I think from May, 1917, until the holidays of 1918, after the armistice was declared, he was there day and day and day and day, serving his country to the very best of his ability.

Now, gentlemen of the jury, in general as far as I made out in detail, as far as your patience will permit, I have outlined to you with all the candor I can command what these men did.

I have outlined it to you, gentlemen of the jury, so that as the proofs come in you will not conclude, as Mr. Dailey says you must, that these men jointly and severally with a common criminal purpose conspired; but that you will reach the conclusion that they individually and severally for patriotic and proper motives were engaged in a political campaign; that they honestly, conscientiously and sincerely thought they had a right to do and were doing right as they did it. I have outlined what they did, how they did it, with all the candor I could command for the purpose of impressing upon you, gentlemen of the jury, that this was a campaign, not a conspiracy. These men were actively engaged in playing practical politics for what they regarded as

pue and patriotic purposes. They were prompted not by pay but by patriotism, their motives were not dollars, but Americanism.

Before the case proceeded, the Court ruled that unless an objection was made specifically in behalf of one or more defendants, any objection made by counsel for any defendant throughout the trial would be considered as made in behalf of all and any exception taken would be considered as taken in behalf of all.

JAY G. HAYDEN, being sworn as a witness on behalf of the government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I am a newspaper reporter and have been engaged in that business since 1917. I have resided in the State of Michigan all my life—thirty-five years. I am the Washington correspondent of the Detroit News, with which I have been connected since 1907. I have been a political reporter since the campaign of 1908.

I am acquainted with a great many of the defendants in this case. I was located at Lansing in connection with reporting the session of 1911, the special session of 1912 and the session of 1913. I know the defendants, Truman H. Newberry, Paul King, Allan Templeton and Frederick Cody. I have known Mr. Cody for 7 or 8 years. In December, 1917, when I was located at Washington as correspondent of the Detroit News, I had seen Mr. Newberry several times; I do not know that I ever had met him before that time. During the same month, just before Christmas, I had a conversation with Mr. Cody in the press gallery of the United States Senate. Mr. Cody said that he came representing Truman H. Newberry. He said that Mr. Newberry was considering becoming a candidate for United States Senator. He said that he had told Mr. Newberry that I was the man that he should secure as campaign manager. He said Mr. Newberry told him that he did not know me, but that he would like to have him come and talk with George Miller, and if George Miller agreed with him to go and see him. Mr. Miller was at that time the Washington correspondent of the Detroit News and I was his associate in the office. Mr. Cody said that he had been to see Mr. Miller, and that Mr. Miller had agreed that if they could get me, I would be a good man for the job. I told him that I did not want the job; that I had been offered campaign jobs before, and that I did not think they were worth much; that for a newspaper man they filled a very

hort period of time; that particularly for a political reporter he ot identified with one faction in politics, and it always hurt im with every other faction afterwards, when he tried to return o the newspaper reporting game, and further than that, just t that time the United States was at war and we were entering pon some of the greatest events that had ever been reported y a newspaper reporter in the history of the world, and I as not particularly anxious to leave the newspaper business ust then. He said that he thought it might be arranged so that would be taken care of after the campaign was over, if I anted it that way. We talked at some length about the possiilities of Mr. Newberry as a candidate. He mentioned to me hat they had been in communication with certain men in Michgan. I cannot remember whether he said they had been to New York, or that he had talked with them in Michigan, or hey had written or what, but I remember the four names that were mentioned,—Mr. Burt Cady, Mr. Clark, Mr. Peterman, of Calumet, who is Governor Sleeper's banking partner at Bad Axe, and Mr. Roger Andrews of Menominee. He said that those gentlemen were all for Mr. Newberry and had urged him to become a candidate for Senator; that they had also had some talk with Governor Sleeper, but that there was some doubt as to whether Governor Sleeper was going to support Mr. Newberry. Mr. Cody at some time in the conversation mentioned the sum of Five Hundred Dollars a month as compensation that might be paid me. In this same conversation he said that he thought the matter of compensation could be satisfactorily arranged if I saw fit to take the job. Mr. Cody came up about two o'clock in the afternoon and he stayed until he just had time to catch his train, shortly after 4 o'clock. I don't know that Mr. Cody said anything specifically about money in the campaign during the conversation. He mentioned the fact that Mr. Newberry was very wealthy. He stated Mr. Newberry wanted me to come to New York to see him. I told him that I didn't have time to go to New York; that we were very busy in Washington and I said to him, "Mr. Newberry probably will be in Washington some of these days in connection with his Navy job. I would be glad to talk with him." He said that Mr. Newberry wanted to advise with me respecting the campaign, whether I took the job or not; that they were not going to take no for an answer, and that I would hear from him again.

After that, on the last Friday of 1917, Mr. Cody called me on the telephone. He said that Mr. Newberry was tied up in his Navy job in New York and it was absolutely impossible for him

to come to Washington, and that he was very anxious to see me, and asked me if I could not come over the following afternoon, Saturday afternoon, and see Mr. Newberry on Sunday. I finally told him I would come. He said he would reserve a room for me at the Biltmore Hotel. I left Saturday afternoon and got into New York at one o'clock on Sunday morning and went to the Biltmore Hotel, where a room had been reserved for me. Mr. Cody came to the hotel ten or eleven o'clock the next morning. I met him in the lobby. Afterwards we went up to my room, where we had a conversation. Mr. Cody said that they were still very anxious that I take the position of campaign manager. We talked at some length again about the campaign in a general way. I cannot distinguish at this time very clearly the exact conversations that occurred in Washington and New York with Mr. Cody. I cannot recollect anything particular. Mr. Cody said several times that he thought the matter of compensation could be arranged. I cannot remember that there was anything more said about the question of money in the campaign. After this conversation at the Biltmore Hotel we went out to Mr. Cody's residence to dinner. After that we drove to the Gotham Hotel where Mr. Newberry had his residence. There we saw Mr. Newberry. A conversation ensued in his apartment, in the course of which Mr. Newberry said that he had been urged to run for United States Senator. He said that I had been suggested to him as a man who should be associated with the campaign. He said he realized that the position for the mere term of the campaign was not very desirable, but that he expected that Theodore Roosevelt would be a candidate for President in 1920, and that he wanted to take a greater interest in politics than he had in the past for a period to and including that campaign, and that he needed a political secretary to look after his interests. I told him, as I had told Mr. Cody, that I could not consider the proposition. Then Mr. Newberry said that in any event he was anxious that I apprise him with respect to the campaign. I told him that I was not in a position to advise him as to whether or not he should run for United States Senator, but that so far as I had any information on the Michigan situation I would be very glad to give it to him. He talked about various phases of the campaign. I remember for one thing that I called his attention to the fact that all the candidates for leading State offices in recent years had been nominated on the Republican ticket by less than sixty thousand votes, and that the Republican registration of the city of Detroit was a great deal more than that number. I said that there was no

question but that a Detroit candidate could be elected Senator almost from Detroit support alone, if he could only get that support from Detroit; that no man had ever had the united support of the Detroit people that I knew of, and I suggested to him that if I was going to run for Senator, the first thing I would do would be to try to get the united support of all of the various factions in Detroit. He asked me how that could be done, and I told him he should see the various political leaders. I mentioned particularly Mayor Marx as the head of the city Republican organization, and Milton Oakman, who was at that time County Clerk, and the head of the County Republican organization, and I mentioned these two men as the two most potent political factors in the Republican party in Detroit. I mentioned a great many other men in the course of the conversation. I said to Mr. Newberry that one of the great obstacles to his candidacy would be the fact that he was little known in the State of Michigan. I remarked to him that I doubted if a thousand people in the State had even seen him. I said that the only way that I could see that that could be overcome would be by a personal campaign. He said that was utterly out of the question; that he could not make a personal campaign; that he was tied up on his Navy job. We had quite an extented discussion of that phase of the matter, Mr. Cody saying that he thought the fact that Mr. Newberry was in New York in the Government service, would serve to overcome any disadvantage he might have from not being in the State. I said to Mr. Newberry if you permit me to offer one word of personal advice, do not attempt to make a barrel campaign in Michigan. In the first place, I think it is against the law; in the second place, I think it is against the spirit of the times. It had been my observation in politics that most of the money which is spent in campaigns is wasted; that a man who sells his vote very rarely delivers. Mr. Newberry said he agreed with that entirely, that if he could not get the senatorship without a large expenditure of money he did not want it. He mentioned specifically the Mitchell campaign in New York and the Herrick campaign in Ohio as two campaigns in which he said large sums of money had been spent and, he thought, most of it wasted.

Mr. Cody said he did not expect to take an active part in the campaign in Michigan, that he, of course, would be connected with the campaign, but working from New York. I left Mr. Newberry's residence to catch the 4 or 4:30 train for Washington, something like that. After that time I was never spoken to about the management of the campaign by either Mr. Cody or

Newberry, that is, no request was made to me to manage the campaign. Mr. Cody told me that if I took this position, they wanted a man to go to Detroit and establish headquarters and take charge of the campaign in Michigan. Mr. Cody said they wanted to pay my expenses. He had engaged a room at the Biltmore Hotel, and, as I remember it, paid for it. He also arranged with the porter to get me a ticket for the return journey, and I think he gave me in cash the amount of the fare over.

During the conversation at the Gotham, either Mr. Newberry, or Mr. Cody in Mr. Newberry's presence, said that he had communicated with Messrs. Cady, Clark, Peterman and Andrews, and some circumstances of the negotiation they had had with these men and with Governor Sleeper were repeated. I cannot say whether it was in Washington or in New York that Mr. Cody stated that Mr. Newberry was very wealthy; he related to me the important interests Mr. Newberry had, and he said Mrs. Newberry was with her husband. He said Mrs. Newberry was the daughter of Mr. Barnes who had been the head of the Barnes School Book Company which had been consolidated into the American School Book Company, and that Mrs. Newberry and her brother controlled the American School Book Company. I do not think there was anything further in that connection.

Sometime between the first of February and the first of May, 1918, Mr. Cody was in Washington for a day or two and was in and out of my office several times. On one of those occasions, I had a conversation with him in the presence of Charles Hughes, Secretary of the Detroit Athletic Club, and Harold Rolland, who was at that time my associate in Washington. I assumed that Mr. Cody and Mr. Hughes knew each other, but it appears they did not. We talked, the four of us, for some time about various subjects. Finally I said to Hughes, "What do you hear about the Newberry campaign in Michigan?" Mr. Hughes said, "Why, they are spending a lot of money—Allan Templeton is getting twenty-five thousand dollars; Paul King is getting ten thousand dollars." And at that point Mr. Cody spoke up. He said, "Why, you talk like a damn fool." And they had some quite heated words, at which point Mr. Cody got up and motioned to Mr. Rolland to follow him into the other room. Mr. Cody came back after talking with Mr. Rolland. He said, "There, that is a sample of the sort of things that are being told about this campaign. It is fellows just like that that are going around telling damn lies about the campaign in Michigan. They started all this talk about the big use of money.

Why, anybody who has got any sense knows that it is not so. Allan Templeton is not getting a cent. Allan Templeton is employed by a company in which Mr. Newberry is interested, he has always been associated in business more or less with Mr. Newberry, and he would do anything in the world for him. So far as Paul King is concerned, Paul King is not getting a cent. I know the arrangement. I was there when the arrangement was made with Paul King. Mr. King said that he did not want any money, would not take any money, that he was a young lawyer and was starting out in the practice of law in a new firm and that they wanted law business, and that Mr. Newberry was connected with companies that had large law business to give and they wanted a chance at some of that business." He said that was the arrangement that was made with Mr. King.

CROSS-EXAMINATION BY MR. LITTLETON:

In December, 1917, when Mr. Cody called on me in Washington, George E. Miller was the head correspondent of the Detroit News at Washington, and I was associated with him in reporting the news to my paper from Washington. I believe Mr. Miller first went to Washington as a correspondent in 1896. He was away for a short period after that, but he had been there a good many years. About a week elapsed between the time Mr. Cody first called on me in Washington and the time I went to New York, which was the Sunday before New Year's, so that the two conversations which I have been asked about happened within a week or so of each other. When he spoke to me on the very first occasion in the press gallery, he told me that he had seen Mr. Miller. He said Mr. Newberry had directed him to come and see me, provided he saw Mr. Miller first and Mr. Miller advised it. I understood Mr. Cody to say that he had told Mr. Newberry he thought I was a good man to employ, that Mr. Newberry said that he did not know me at all, but that he would like to have Mr. Cody ask Mr. Miller about me. I knew Mr. Newberry was a wealthy man; that was no news to me. Cody said satisfactory arrangements could be made if I considered favorably the proposition to act as political representative or manager for Mr. Newberry. I told Mr. Cody that the reason I could not become the political representative or manager for Senator Newberry was that the events of the world were very dramatic and interesting, and I wished to be in the reportorial field during that period, and I had never been a political manager in my life, and had never been actively engaged in politics, except as a political reporter. I did not assume

to have any experience as to the management of political campaigns. After I said I would not accept this position, Cody said for me not to foreclose this matter; that they were not going to accept "no" so early for an answer. The conversation that took place in my room at the Biltmore was practically the same as had taken place in Washington. Mr. Cody told me again that he thought satisfactory arrangements could be made, and again I told him that I could not consider it. I had in the meantime talked with Mr. Miller. Before Mr. Cody and I called on Senator Newberry at the Gotham, I had never met him, except to interview him as a reporter. As a reporter I was introduced to him by Mr. Cody. On that occasion Mr. Newberry said that he was interested in the campaign which would probably ensue with reference to the candidacy, or possible candidacy, of Colonel Theodore Roosevelt for the presidency. I knew that he had been identified with Colonel Roosevelt's administration, and had served under him as Assistant Secretary of the Navy and Secretary of the Navy. I cannot remember whether Mr. Newberry at that time said to me that he had seen the four gentlemen from Michigan to whom I have referred. I understood that there had been communications between them. I presume Mr. Cody told me where and when the conference had taken place between these gentlemen with reference to the possible candidacy of Mr. Newberry, but I do not remember. From things I remember, there certainly must have been more than one conference on the subject. I remember the matter with respect to Governor Sleeper. I remember of his telling of the first meeting in which they thought Governor Sleeper was going to support Mr. Newberry and a later meeting when they found he was doubtful. He said, with respect to Governor Sleeper, that he came in or communicated with them at the second meeting, and said he had been dining with Mr. Prudden, and that inadvertently he had told Mr. Prudden that if he wanted to run for Senator he would support him and that since he had partially promised both of them he had decided he wouldn't support either one of them which reduced him to the state of neutrality—neutrality I think is the word.

At this conversation at the Gotham with Mr. Newberry and Mr. Cody, Mr. Newberry told me he was very seriously considering running for United States Senator from Michigan. He told me, in substance, that he was endeavoring to ascertain whether there was any substantial and serious sentiment in his favor as a candidate. He told me substantially that, in connection with asking my opinion, he said he was anxious to know what

the possibilities were of his getting the office. He said that I had been suggested to him by Mr. Cody as being a political writer of long experience in Michigan who would be likely to be able to give him the information which would enable him to determine whether there was any substantial sentiment for him. He said he wanted me to go out and establish a headquarters in Detroit. He didn't say positively that he was a candidate for Senator; he wanted me to go out and examine the situation, I think—sound out the sentiment in Michigan—something like that. That was my understanding of the substance of his request. I told him, after I found out the situation, that I could not go. I think I told him, as I had already told Mr. Cody, that I was attracted more now than ever by reportorial work on account of the war. I gave him some suggestions at his request with reference to political matters in Michigan, and amongst others that I did not think the campaign ought to be conducted as a barrel campaign, or substantially that, and gave him my reasons for believing that that was an improper and unwise method of conducting a campaign. Senator Newberry agreed with me in that very heartily.. He called attention to the fact that the Mitchell campaign in New York for Mayor was a sample of the extraordinary, or large, expenditure of money. I presume he called my attention to the amount that had been expended in that campaign. I remember we talked about amounts, but I do not remember them. He did call attention to the fact that in the campaign in New York at that time between the candidates for Mayor, that Mitchell, the then incumbent, that is, the Mitchell party, and his friends, had expended a sum up in the millions; I could not remember the exact amount. He also called my attention to the fact that the Herrick campaign in Ohio was another example of the extravagant and wasteful expenditure of money. I do not remember whether Mr. Newberry at that time told me or reminded me how much the Herrick campaign had cost, but I do remember his remarking that Mr. Herrick's son carried the check book in that campaign and went around telling people that he was handling his father's check book, and that the story had gotten out in Ohio, and it had done Mr. Herrick more harm than his money could have done him good. When I left Senator Newberry after I had this conversation with him I gave him to distinctly understand, so far as I could, that I would not accept the position of political secretary and do this work in Michigan. I returned to Washington and shortly thereafter I took Mr. Miller's place there. Mr. Miller left Washington, if I

remember correctly, about February 1st following, and I succeeded him. When he went away I supposed he was coming back. He went to Detroit to take the position, temporarily, of Mr. Pipp, who had gone to Europe. He was appointed editor of the News the following May, but he didn't go back to Washington after his departure in February, at which time I became the head correspondent of the News in Washington. I had known Mr. Cody quite well for several years.

RE-DIRECT EXAMINATION BY MR. DAILEY:

I did not have the slightest intimation that Mr. Miller was to become editor of the News until May 1918, when Mr. Miller wrote me a letter stating that fact.

JAMES SWEINHART, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived at Elmhurst, Long Island, since the first of October, 1917. Prior to that time I lived in Detroit, Michigan. I was born and brought up in Michigan, but was absent many years in the east. I have been engaged in newspaper work since 1904. At present I am running the New York office of the Detroit News, and I have had that position since October, 1917. I am acquainted with the defendants Truman H. Newberry and Frederick Cody.

In January, 1918, I had a conversation with Mr. Cody in reference to Mr. Hayden. Mr. Cody first told me that Mr. Newberry had invited Mr. Hayden over and that they were going to employ Mr. Hayden as the Manager in Michigan. He asked me what chance I thought that they would get Mr. Hayden to be their manager. I told them that I thought he had very little chance and stated my reasons therefor; then he said that Mr. Newberry would make Mr. Hayden such a financially advantageous offer that he could not afford to reject it.

I am acquainted with Mr. Robert Oakman of Detroit. Mr. Oscar Marx, who was former Mayor of Detroit, and Edward T. Fitzgerald, also of Detroit. I saw these men in New York in January, 1918, at the Hotel Biltmore. At the time I saw them they were seated at a table in the lounging room next to the bar together with the defendant Cody and two other men. I had a talk with Mr. Cody at that time. This was the first time I had ever met Mr. Cody, and he expressed some delight in meeting me because of my newspaper work in Michigan. After we had chatted about half an hour on things in general, they

stood up to go, and as they stood up to go, Mr. Cody sort of took me by the arm and led me back through the room to where there is kind of a cushioned seat, where we seated ourselves, the others remaining at the table. After some conversation, we saw the other people were moving away, so we got up to go down the hall, and he said to me, "What do you think about Truman Newberry as a senatorial candidate?" I said, "He would make a mighty good candidate, very good candidate," and we went on down to the table, and he called the attention of the gentlemen there present to the fact that I thought Mr. Newberry would make a splendid candidate, and something was said there to the effect that they thought so too; and that was all the political conversation we had that day. Before we moved out to where the other gentlemen were sitting, and as we moved down towards these others, he said, "It will be a great time for the boys in Michigan, because they will spend a barrel of money."

Subsequently, on the Sunday before he sailed for Europe, I saw Mr. Fitzgerald upstairs in the Biltmore, in the room occupied by Mayor Marx and Mr. Robert Oakman. After being there a little while, he and I left. On our return, about half an hour later, as we stepped out of the elevator, we met Commander Newberry face to face coming away from the room of Mayor Marx and Mr. Oakman, which was near the elevator. Mr. Newberry was in naval uniform, and Mr. Robert Oakman and Mr. Marx were saying good bye to him, and then we got out and said good day, or something like that. My newspaper work took me to Mr. Newberry's office at 280 Broadway, very frequently from the time he came from the Brooklyn Navy Yard and opened the office there until the 10th of September following. After I met the defendant Cody, my visits to Mr. Newberry's office were frequent, but they were not at all regular; some days I would be there twice, sometimes two or three times a week, and then there might be ten days or two weeks when I was not there at all. It all depended upon the instructions of my office to go and get some particular information. On the occasion of those visits I saw the defendant Cody very frequently in Mr. Newberry's office. Sometimes other people were there, sometimes not. Very often when I went, Mr. Cody would be there, or possibly I might have gone there and while I was there he would come in. There was an opening there, a sort of a gate that you had to pass through, as you could not go through until you had permission from the inner office. There were several occasions when I went there with Mr. Cody, and on those occasions we went right through. I would not say

I found Mr. Cody present with Mr. Newberry every time I was there, but the majority of times that I went to the office Mr. Cody was there, or came in while I was there. Mr. Newberry and I frequently discussed the senatorial campaign in Michigan, regardless of the business I went there on. I inquired about the campaign, how it was going. He said, from time to time, speaking generally, that he had had communications from Mr. King telling him the campaign was going very well indeed; that prominent men in all parts of the state were coming out for him, and he had an impression that the campaign was going very good. I remember once that he mentioned that almost daily he got either a telephone message or a night letter. I remember he showed me one night letter in which something was said about some prominent politician was coming down to New York and he should show him whatever courtesies he thought fitting because of his influence in the state. I do not remember who the telegram was from; it seems to me it was from Mr. King. When Mr. Newberry told me that he got the communications almost daily, I do not remember that he named any one specifically, or the party from whom he received communications. I should say that he said that he was kept posted almost daily either by telephone message or letter or telegram, night lettergram, something like that, and that he knew that prominent men all over the state were coming out for him because the organization in Detroit had told him so. Mr. Cody was sometimes present at these conversations that I had with Mr. Newberry. I remember one specific conversation I had with Mr. Cody in the office of Mr. Newberry. It related to money. It would be early spring time; I cannot say when—probably April. There were quite a number of gentlemen present in the office at the time of this conversation, but the conversation was between Mr. Cody and myself, because we stood at some distance from the other parties in the room. As I remember, Mr. Cody said he had been out there and he understood that the lid was off and the sky was the limit as far as expenditures were concerned. One day during the campaign I saw former Governor Osborne of Michigan in New York. I cannot fix the time. After I had seen him, I went over to the rooms of the National Republican Committee. Mr. Cody was there. He said with reference to the presence of Mr. Osborn in New York, there was going to be a conference and that he had come down to the National Committee rooms to act for Mr. Newberry, and had told Mr. Newberry to stay at his office and do his work, that Mr. Newberry had first intended to come to this conference, but

that he had come to act for him and had broken up the conference. During this period I am talking about, Mr. Cody once escorted Mr. Stace of the Grand Rapids Press to Mr. Newberry's office. Mr. Cody came to my office one day about the first of February and he told me that they were hoping to get Mr. Paul King as manager of the campaign, and they hoped to have Mr. Allan Templeton head what they were going to call a representative citizens' committee that would sort of give a prestige to the campaign, and then they also hoped to get Mr. Frank W. Blair as the treasurer; and I should say it was about a week, possibly two weeks later than that, that he was at my office again, and he told me definitely that these men had been secured, Mr. King as manager, Mr. Blair as the treasurer, and Mr. Templeton as the executive, or as the head, of this representative committee, and that these men had been specifically appointed by Mr. Newberry; that is, that they had been secured at his personal request.

I have known the defendant Thomas Phillips quite some years. I worked with him on the Detroit News. During the 1918 campaign Mr. Phillips came to the office on two occasions as I remember. On his first visit he wanted a suggestion from me as to some big republican who would stand for an interview, supporting Mr. Newberry. I suggested Theodore Roosevelt. Two weeks later he was in my office again, and mentioned that they were going to take a motion picture film of Lieutenant Commander Newberry reviewing cadets down to Bellham Bay Training School. As I remember it, he invited me to go along with a little party they were making up to go down to see this review and have the pictures taken.

CROSS-EXAMINATION BY MR. LITTLETON:

I first went to New York as a representative of the Detroit News October 6, 1917. I had not been working permanently in New York for the Detroit News before. I established an office of the Detroit News at 22 Vesey Street in October 1917. That was the first time the Detroit News had an editorial office in New York within recent years. In 1887 they had an editorial office and they have always had an advertising office, but this is called an editorial office; we handle news, not advertising. I had never seen Mr. Fred Cody, to my knowledge, before the time I met him in the lounge of the Biltmore Hotel. That was approximately some time between the 15th and 20th of January, 1918. I knew that Mr. Fitzgerald and a Mr. Larned, also of Detroit, whom I also knew, were going abroad to do

war work, and I went to see them socially, though I thought possibly there would be a story in it. As I remember it, my home office wired me that they had been down in Texas and were about to sail and would be in New York on a certain day. When I found Mr. Fitzgerald, he was sitting about a table in the lounge room of the Biltmore Hotel with the gentlemen I have named. As I remember it, we talked there probably half an hour and it was getting late and they arose to go, and as we stood up Mr. Cody kind of pulled me aside by the elbow and I walked along with him and we walked back to this little seat back there by the brokerage office. After talking there probably five or six minutes, we returned to the table where the others were. I do not think we sat down again. We were all standing there talking. The only political conversation Mr. Cody and I had had that day was this: He said to me, "What do you think about Truman Newberry as a Senatorial candidate?" I said, "He would make a mighty good candidate, very good candidate." After this, we went on down to the table, and he called the attention of the gentlemen there present that I thought Mr. Newberry would make a splendid candidate, and something was said there that they thought so, too. I should say this was between four and six in the afternoon, somewhere there. As I remember, I met Mr. Cody, Mr. Marx, Mr. Oakman and Mr. Fitzgerald the following morning at the Biltmore. I do not remember whether it was at this specific meeting, but I know some arrangement was made that afternoon or the next afternoon, but the arrangement was made, in consequence of which Mr. Cody, Mayor Marx, Milton and Robert Oakman, Mr. Fitzgerald and I went to see Colonel Roosevelt at the Century Club.

I do not remember any occasion after the meeting at the Century Club when I met Mr. Fitzgerald, Mr. Marx and Mr. Cody together again on that trip. There were two or three times when two or three of us would be together. I made it my business to go up to the Biltmore and see these gentlemen every day they were there. As a newspaper man, I would have gone anyhow. My office told me to get a story, and I went and got one. They were at the Biltmore maybe a week or ten days, something like that. During that period, I was not in and out of the Biltmore practically every day. In fact, they had been there two or three days before my office wired me to go and see them.

As I remember, I first went to 280 Broadway to see Commander Newberry between Christmas and New Years in 19[illegible]

office sent me there. That whole building, which is a large e, was occupied by the government as the headquarters for Third Naval District. Commander Newberry's offices were ge ones and attendants in uniform were all about the build- g. I never went to his office unless my office sent me, or went th somebody who was interested in seeing him. During the mpaign I would take people there who wanted to see the mmander. I thought it would be a good thing for him to ow them or them to know him. As I remember it, my office red me in December 1917 to get a story about some Red oss work that Mrs. Newberry was doing in New York, and went over to see the Commander about that. There was no litical aspect to my visit at that time. I went over there to e him about this Red Cross work and about any other work anything else that would be news for my paper. He men- oned at that time that Hayden had been in town on the Sunday evious. No political campaign had been started in Michigan that time, but there was a lot of talk. The next time I went see him was probably about the 23rd of January, when I ent alone. During all the period that I went there, there was ite a number of times when nobody was waiting and when e would be working at his desk, and probably an attendant or omething coming and going, but most of the time people were oing in and out. It was a busy place, and there was always n attendant or gateman at the door. There was not always n attendant in the large room which Commander Newberry ccupied or about there, not always. I sat down and talked to Commander Newberry quite frequently when I went there. He as not standing at his desk most of the time; he worked at desk, sitting. On my direct examination, I gave Mr. Dailey sometime along the spring time as the date when I went to see and spoke to Commander Newberry first about his political campaign. I do not know exactly when. I knew at the time I saw Commander Newberry at the Biltmore saying good bye to Mr. Marx and to Mr. Robert Oakman that he knew those entlemen. As I understood it, he met them for the first time on this trip. I did not know that he knew them well. I did not hear anything that they said except "Good bye" to each other. I could not say when I had occasion to call at the New- berry office after that time. I simply know that after that time he got into the campaign and it was a matter of news, and as a matter of routine, I was on it quite often. I knew that Mr. Newberry and Mr. Cody knew each other very well. Mr. Cody and I went to Mr. Newberry's office together on several occa-

sions. When I went without him, it was for the purpose of getting any news for my paper that I could get. When I went with him, he would drop into my office just as in the case of this friend of mine from Grand Rapids, Mr. Stace. We would all go over together; there was no particular news object in it. I believe Mr. Newberry and Mr. Cody knew that I was a newspaper man. When I was with Mr. Newberry in his offices, he would talk to me while Mr. Cody was there, and Mr. Cody talked to me while Mr. Newberry was there. I was told that other men were coming to see Mr. Newberry in his office, Michigan men, and men from other places, frequently. I never saw men there whose sons were in the Navy and in that Division there, and who called to see him in reference to their sons, and their location and their entrance into that Division, and where they should be assigned or would be assigned; but I was told so.

At the time in early April, 1918, as near as I can fix it, when Mr. Cody asked me in Mr. Newberry's office about political affairs in Michigan, I did not tell him anything about the campaign. I do not remember in detail anything I said to him. In general, I told him that I did not know much about it because I had been in New York all the time and he was in a much better position to know about the campaign out there than I was. When I testified in my direct examination that he said to me that he had been out to Detroit, that the lid was off and the sky was the limit, I was purporting to give his exact words. As near as I recall them, that is precisely what he said. I did not make any note or memorandum of the expression at that time, nor did I write down anything about what he said to me. I made a report to my paper about it, for its files, not for publication. I believe I made the report at that time in connection with a report on what he had said about the telephone company. I did not write any article as a reporter for publication. I do not remember anything else that Mr. Cody said at that particular time, except the words, the lid was off and the sky was the limit. Just then the naval officers went out and we went back over to Mr. Newberry's desk and talked with him. There is nothing else that I can recall that took place at that time between Mr. Cody and myself, because it ended right there.

As I remember it, I wrote a report that night to my office supplementary to this previous time in which he had talked about money being used. I do not remember telling anybody about it. I do not remember the earliest occasion when I used these words which you say were Mr. Cody's words. I never

told anybody he used those words, "The lid is off and the sky is the limit." About a couple of months afterwards, I discussed those words with Mr. George E. Miller, the editor of my paper. He was in New York and we talked over these reports, and I remember using the expression with him, that is, telling him what Mr. Cody had said on this occasion. During my talk with Mr. Cody at the offices of the National Republican Committee, he said he would not let the Commander come. He did not say who was to be present at the conference, or who was present. I learned who were the members of the conference from the Morning Times. When I got to the rooms of the National Committee, everybody was denying that there was going to be a conference or that there had been any intention of being a conference.

Mr. Cody told me that the conference he had broken up was between Mr. Newberry and Mr. Osborn, and, as they hoped, Mr. Ford. Senator William Alden Smith was mentioned as coming down also. I do not know that Mr. Cody told me that the conference broke up because Mr. William Alden Smith would not or did not attend it.

RE-DIRECT EXAMINATION BY MR. DAILEY:

The office that I then occupied in Vesey Street was within 400 or 500 yards of the office that Mr. Newberry occupied. I do not remember that Milton Oakman was at the Biltmore Hotel when I first went down there. I believe he arrived later within the next day or two.

OSCAR B. MARX, being sworn as a witness on behalf of the government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit and was formerly Mayor of that City. In January, 1918, at a time when Mr. Edward Fitzgerald was about to leave the United States on some European mission, I made a visit to New York in company with Mr. Robert Oakman. During the three or four days we were there, we were quartered at the Biltmore. At that time I knew Mr. Truman H. Newberry personally. I also knew Mr. Frederick Cody. During my stay at the Biltmore, they paid a visit to my rooms. Besides myself and Mr. Cody and Mr. Newberry, Mr. Robert Oakman was present. I do not believe Mr. Milton Oakman was present. I think he came after we were there. I do not remember whether he also stopped at the same hotel. On the occasion of this visit of Mr. Newberry and Mr. Cody to my rooms, we talked, in a gen-

eral way, about his candidacy, or his proposed candidacy, for the United States Senate for Michigan. He said he had an idea he might be a candidate. In that conversation Mr. Cody talked to me personally with reference to me and my organization. He said if Mr. Newberry became a candidate, that it would take quite a load off from his mind to know that the Marx organization would be with him. I do not remember whether he said anything to me at that time about Mr. J. G. Hayden. There was something said about Mr. Hayden being the manager, but I do not remember whether it was at that time or some other time. I do not remember exactly what was said on that subject; it was something in connection with Mr. Newberry and the campaign—that he was trying to get Mr. Hayden to manage the campaign. I recall Mr. Cody accompanying me and Mr. Robert Oakman to see Mr. Newberry in New York, though I would not swear it was in January, 1918. I know I went over there at one time to see Mr. Newberry about transferring a young man from Detroit to Pelham. During the campaign of 1918 I saw Mr. Frederick Cody in Detroit a number of times. He would usually drop into my office. The matter that we talked about in New York was not discussed any more.

CROSS-EXAMINATION BY MR. LITTLETON::

I have known Mr. Frederick Cody a great many years. His home was in Detroit. His mother and his brother, whom I know very well, live in Detroit. I have seen Mr. Cody in Detroit very often throughout the past ten years and I have seen him in New York every time I have been there throughout the past five years. On this occasion in January, 1918, when Mr. Newberry said he might be a candidate, and he and Mr. Cody came up to my room at the Biltmore, Mr. Cody spoke to me personally, aside from Mr. Newberry, and I imagine it would be out of his hearing. We went to the window. In that conversation he said it would help matters, or relieve Mr. Newberry's mind, in the event that he did run, to know that he had the support of the Marx organization. I said it could not be done.

EDWARD T. FITZGERALD, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit. I have no business connection at the present time. I was formerly connected with the City of Detroit. In January 1918 Mr. Abner E. Larned, of the Larned-Carter Company, also of Detroit, was in New York for the purpose of

sailing to France. He and I were quartered at the Biltmore Hotel for approximately ten days. I am acquainted with the defendant Frederick Cody. I was present when Mr. Cody visited us in Mr. Larned's room at the Biltmore during that stay. During the conversation Mr. Cody mentioned Mr. Newberry and asked Mr. Larned what he thought of Mr. Newberry for United States Senator. Mr. Larned said that he did not think very much of it, and Mr. Cody asked him his reasons, and he then proceeded to name them.

WILLIAM P. FROST, a witness produced, sworn and examined on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in New York City about fourteen years. My present occupation is that of a manufacturer of newspaper ink. In 1918 and prior to that time I was an officer in the Naval Reserve Force, United States Navy—in 1918 lieutenant and later Lieutenant Commander. In my duties in both ranks I was located the first two months in the Navy Yard at Brooklyn, and after that at 280 Broadway, New York City, where I went in February, 1918. I was acquainted with Mr. Truman H. Newberry, whose offices during the time I have been inquired about were on the fourth floor. Mr. Newberry was in charge of the entire personnel service of the Third Naval District. In my duties in connection with the Navy, I had occasion to call at the office of Mr. Newberry nearly every day from the time we moved from the Navy Yard to 280 Broadway. I have met the defendant Frederick Cody at 280 Broadway in Commander Newberry's office. Mr. Cody was not, to my knowledge, connected in an official way with the Navy. I never saw him in uniform. I visited the offices of Mr. Newberry during the time that I have mentioned, sometimes once a day and sometimes four or five. I saw Mr. Cody there many times. I never heard any of the conversations that occurred between them. I might have seen them in an attitude of conversation as I came in the door, but I was always greeted by the Commander the minute I came in, so that must have terminated it if there had been a conversation. There were orderlies stationed at the doors of Mr. Newberry's offices. When anyone came to the floor and to that office, he was usually stopped by the petty officer at the door and asked to state his business; then his card was taken into the Commander and it was decided whether he could see him or not. I think that was probably the course on every visit.

CROSS-EXAMINATION BY MR. LITTLETON:

I believe that would apply to a personal friend until he had come often enough to have the petty officer know that he was a friend of the Commander. During that period a great many men, both in uniform and in civilian dress, were in Commander Newberry's office. His office was a large room. The desk that he usually used was of the sort at which you stand to work. He usually stood at his work. When I went in, I usually found him standing by the desk or near the desk. A great many people came and went to 280 Broadway during that period. I think every mother and son in New York that had a boy in the Navy came to see Commander Newberry.

KATHLEEN M. MARSHALL, a witness produced, sworn and examined on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit. During the spring of 1918 I was employed at the office of the Truman H. Newberry Senatorial Committee in the Ford Building in Detroit. I think I accepted employment with that Committee on the 19th of March, and I continued in the employment of that Committee until the 1st of July. I was employed by the defendant, B. Frank Emery, who told me I was to receive twenty-five dollars a week, which I did receive during the time that I worked there. Mr. Emery generally paid me; a Miss Shapiro sometimes did, but I do not recall anybody else paying me. I was paid in currency every Saturday. As far as I know, all the other employees were paid the same way. There were five rooms in these offices when I first went there to work. I do not know Mr. King and never saw him but once while I was there. Mr. Harry Turner was there. As far as I could tell, he was assistant to Mr. Emery. Mr. Emery had charge of all of the office force. When I first went there, the force, men and women combined, consisted of about thirteen. Later on, if I except the men—I could not tell about the men—but with filing girls and stenographers and altogether I should say it consisted of about twenty girls. I saw the defendant Terry Corliss in the offices. I know Mr. Allan Templeton just to see him. I saw him in the offices. When I first went to the headquarters, I was engaged in the work of searching the newspapers for clippings pertaining to anything about the campaign, editorials and news items. We clipped them and put them on a paper and named the paper it was in. I put them on papers and labeled them and filed them away. I think

girls that were employed there afterwards placed them in a book. They were all kept in a file alphabetically. I saw them pasting these clippings on sheets of paper. Miss McDougall worked in the same line of work that I was engaged in. When the men began to take charge of the press department—when the publicity campaign began—I was assigned to distributing the literature, sending out to the different places. I knew the defendant, Hannibal A. Hopkins. I worked in connection with his department at first. The defendants Thomas Phillips, William C. Calnon and James B. Haskins were employed in the press department. After the 1st of June I was alone in the work of sending out literature to the politicians for a month. I was assigned to send to headquarters an adequate portion of each kind of literature to the different politicians, together with a list of the men in each county and their address whether or not it consisted of the chairman and secretary and the name and manner by which they should be addressed. Sometimes Mr. Emery, and sometimes Mr. Turner, furnished me with the list of names. I generally had a new slip every morning; I do not think I saw the regular list that Mr. Turner himself had at any time. They would send me a slip up every morning, with a list, with names to send that particular day. I had the writing up of it to do, and the addressing with pen and ink and sending of it out. At that work there were stenographers and filing girls and mailing girls, and a multigraphing operator. Later on other rooms were added to those that I spoke of. When I first went there there were five rooms in use and they were on the third floor. The other rooms were on the fourth floor. I know the defendant Zalie B. Clago. When I first went there the offices he occupied with reference to the offices I was in were across the hall. Then later the press room went across the room adjoining Mr. Clago's room, but the door was generally closed between. The room he occupied was one of the five which were in use when I first went there and was on the third floor. For a while there was one, and then I think two other small rooms were added. I used one with the literature and the other was used by Mr. Emery, and he had some girls in there; I do not really know what the nature of their work was. I think the rooms on the twelfth floor were not used regularly, but occasionally, by Mr. King with others.

I never did any work in connection with the Newberry estate. During the time I was there, some of these gentlemen in connection with the office spoke in my presence about trips to New York. I have heard Mr. Emery tell some persons to make

reservations for New York for Mr. Hopkins and Mr. King and Mr. Phillips on a couple of occasions. It was just in casual conversations among themselves that I heard it. It was not directly to me. I heard them speak of Mr. Cody, but I did not pay much attention to what they were saying, only I knew they had seen Mr. Cody from what they had said. A day force and a night force were employed after the campaign got well under way. I was working on the day force. Mr. Frank Emery told me the money was kept in a vault in the Commonwealth Bank. I asked him why he did not pay by check, and he said it was easier to have the cash in a chest in the vault and they could get it out without signing checks.

LOUISA B. DELAMATER, a witness produced, sworn and examined on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Walkill, New York. Detroit was my home a couple years ago, and I lived there in 1918. I know the defendant Mr. B. Frank Emery. I was employed by him at the Newberry Senatorial Committee in Detroit. I took the position on March 5th. I was a stenographer and received eighteen dollars a week. I had some stenography, but after that my work developed into a great deal of type work. I remained at the Truman H. Newberry Senatorial headquarters until April 22nd. The first week I was paid by check, and after that they paid us in cash. Mr. B. Frank Emery paid me. I do not think any one else ever did. They used to make up the pay for them all, and they would send someone for it and bring it up, but I believe Mr. Emery gave us all the envelopes for it. Describing the offices of the Newberry Committee when I first went there, as to the number of rooms and how they were located and who occupied them, opening right off the hall there was a large room that was used as a general office, and there were two rooms at the right from that, going in the hall there, and one office was occupied by Mr. King and Mr. Emery. There was also a space in there for Mr. Oakman, but I do not know that he ever occupied it; he was not in there very much of the time, if he was at all. Then there was another room that opened off the general offices and also connected with Mr. King's room, and that was used as a consultation room, and Mr. Floyd was occasionally in there when he was at the headquarters. There was a room opening off the left of the main room which I believe was called a press room, or they used it for collection of newspapers and clippings

and so on. Then later on they opened offices across the hall. There were two or three rooms over there, one was at the end of the hall. I never was in there. The offices were opened on Saturday preceding March 5th. I believe some of the furniture had just been taken into the offices, and Mr. Emery was busy then arranging it, and Mr. Smith from the Newberry Estate office was in there helping, and I believe that was all that was in the office when I went ia there. The offices were opened for business the following Monday morning, but we really did not do very much Monday. I do not know about additional offices on the other floors. There were a number of other rooms taken on from time to time on the same floor. I knew Mr. Paul H. King there; I did not know him before I went with the committee. A great deal of my work was from him. He was in charge of the office. I took some dictation from him, in his private office, and occasionally we were taken by Mr. King to the twelfth floor at the Newberry Estate offices, because it was too noisy downstairs or something like that. He dictated to me there. The woman's suffrage were giving a demonstration in the building and I think one time when I was up there he mentioned in a letter to Mr. Newberry it might be well to come out strong for woman's suffrage. I think at the time I left there were only about ten or twelve stenographers and typists employed at the office. I do not think the right force had been put on at that time. The defendants King, Sibben, Emery and Haskins went to New York a number of times to see Mr. Newberry. During the time that I was there, I heard Mr. King and Mr. Emery speak about making trips to New York for the purpose of seeing somebody. The defendant Frederick P. Smith from the Newberry Estate office was not stationed at the headquarters long, but he was in and out occasionally—frequently. I saw the defendant Milton Oakman around there occasionally, but I do not know that I remember him. Clarence Sibben was sort of secretary to Mr. King and he travelled with him when he would go on trips through the state; in fact, anywhere away from the office. I believe he had a typewriter he carried with him and he would go with him to New York and out through the state. Letters were written in the office in large quantities with a New York date line, ready for signature, and they were wrapped up and sent by parcel post to New York for Mr. Newberry's signature. They were typed by the girls in the mailing department. At the time I went there there was just Miss Nevin; the first time I went there was just Miss Nevin and myself; then later Ruth Goldstein and Florence Shapiro, in the matter of a few weeks;

something like that. They put on two more girls this time until there was about ten or twelve at the time I left. Some of those girls had duties in taking care of the mail. A Miss Marshall, I believe, had something to do in the mailing department.

CROSS-EXAMINATION BY MR. LITTLETON:

I do not really know the reason why Mr. Emery changed from paying by check to cash. The bank closes at noon, and sometimes, if we were left to cash our own checks, by the time we would finish and get our wraps on and get down there, the bank might be closed. I took it for granted that was the reason for the change, because we made a number of complaints about it.

SOPHIA ALTMAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at 296 Hancock Avenue, Detroit, Michigan. In the year 1918 I was employed at 310 Ford Building, Detroit, for the Newberry campaign by B. Frank Emery. I received eighteen dollars a week. We were generally paid by envelopes passed around by one of the young ladies. At one time when I left, Mr. Emery took $12 in cash from a box which he got from the vault and put it in an envelope and gave it to me, after which he put the box back. I was employed by that committee about three weeks. I was employed as a stenographer, but I had very little or no stenography; I only did typing. At first we were in the room where you entered, but we were moved to a further room later on. I worked day time. I should say about ten girls were employed there during the time I was there. I knew very few of the men at headquarters, at least I did not know their names. I knew Mr. Emery, Mr. Turner, Mr. Floyd, and Mr. Hopkins. I do not believe I ever saw Mr. King. I knew several of the girls who were there, but of the girls employed in the room right across the hall from me, I only knew Miss Marshall. Mr. Clago, the Wayne County official, used to come in occasionally. I saw Mr. Clago and I knew that one of the girls was getting paid through the County Building. Part of my work was writing form letters and copying names on Newberry nominating petitions. I believe they were mostly from the country, different parts of Michigan. Most of the time I was writing the form letters. I did not, to my knowledge, prepare any of the letters that were written there to be sent to Mr. Newberry at New York for signature. I know Mr. Sibben, Mr.

King's secretary. I know on one occasion Mr. King and Mr. Sibben were planning a trip to New York and Mr. Sibben was along with Mr. King to New York. I do not know whether it was to see Mr. Newberry. I did not hear them whether it was to see Mr. Newberry. I did not hear them talking about it.

KATE MC DOUGALL, being sworn as a witness on behalf of the government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at North Branch, Michigan. I am a stenographer. About February or March of 1918, I was working in Washington City. I asked for employment in Michigan about that time and received word from Mr. King, the defendant in this case, to come back to Michigan and go to work for the Newberry Senatorial Committee, whose offices were in the Ford Building. I worked on the third floor. When I first went there, I was stenographer to the defendant, Hannibal A. Hopkins, in the publicity room. I also did whatever stenographic work Mr. Phillips had. I checked the bills that came in from the newspapers for the advertising we did with them and kept the clippings that were cut from the newspapers. When the contracts that were sent in by the newspapers throughout the State were sent back, I filed them. I do not know exactly how many were filed. They were supposed to advertise in about 400 papers, I think. I made out cards whereby I could check the bills more easily when they came in—a sort of cross index for the contracts and for the newspapers. I went to work the first of May and continued until around the last of November or the first of December. For some months after I went to work, I was paid every week with money, cash, by the defendant Turner. I had nothing else to do with the newspapers except the filing away of the contracts, the making of the card index system for the newspapers, and the checking of the advertisements. I had to do with the clippings of editorials or news items concerning the campaign; not of the advertisements. I do not know of any particular time when I got up a collection of the advertisements. I do not remember that I was requested by Mr. Hopkins at any particular time to take charge of the advertisements for any purpose. I could not say positively. I do not remember that Mr. Hopkins ever said to me that he wanted to turn over a series of advertisements to somebody and for me to get them ready. Mr. Hopkins and two other men, Phillips and Calnon, prepared the advertisements that went into the newspapers.

Mr. James B. Haskins was there for a short time and had a little to do with it. Later I think he went to Grand Rapids. After these advertisements were prepared they were usually submitted to Mr. King. These advertisements ran in the papers in thirteen or fourteen different weeks, fourteen, I think; a different advertisement each week. When the advertisement was prepared and passed on by Mr. King, it was sent to the Western Newspaper Union to be printed, and there they made the cuts. The cuts were not brought to headquarters; the proofs were brought to the office. I suppose the cuts were sent to the newspapers to be printed. I myself wrote letters saying we were sending them. I then checked the newspaper to see whether or not the advertisement was there, and figured up the amount that would be due upon that issue from the written contracts that I kept on file.

I know Mr. King personally. I saw him about the offices. He had a private office and private stenographers—Mr. Silsbee and Miss Nevin, I believe. There were no other young ladies in the publicity department, but others were employed in the main Newberry offices there—different numbers at different times; possibly three or four, in the mailing department. I do not know anything about the night shift at all. I never was there. On the day shift there were possibly three or four in the mailing department, and probably eight or ten girls altogether in the offices. The Wayne County headquarters were located next to this office. Three young ladies were, I think, employed there. Mr. Clago was in charge. I do not know Milton Oakman except by sight. I saw him up there. I know Mr. Terry Corliss. I saw him at headquarters possibly once in every four or five weeks. Mr. James R. Davis was there just about as much. I saw Mr. Charles Floyd there, but not very often; possibly four or five times. At the time I took employment in headquarters, he was in Grand Rapids, where his duties were. I saw the defendant James McGregor in headquarters, Detroit, just about the same. I am acquainted with the defendant, Elbert V. Chilson. I think he had charge of a speakers bureau, or something of that kind. I do not know that he had any special stenographer. I think a Mrs. Hayes did some of his work. I do not think any other men were connected with his department. Mr. Chilson was in Mr. King's office. I never was in there. I know Mr. A. A. Templeton by sight; I do not know him personally. I very seldom saw him in these offices during the time I was employed there—only a few times. I think Mr. Hopkins went up there once in a while, but I do not know as I ever

heard him say he had been up there any special time. I know Mr. Fred Cody by sight. I saw him at headquarters once, I think. That was the morning after the primary election. Phillips told me he was going to New York to get the movie, "Our Navy" started. He had a long distance telephone with the movie man in New York after he returned from New York. The films had been delayed and he asked why they did not come.

The data used in the preparation of the newspaper advertisements consisted of scrap books. I saw the scrap books myself. They contained references to Mr. Newberry. I think they were there when I came. I worked with the Newberry Senatorial Committee until the primary election. Immediately after that I worked for the Republican State Central Committee in this same suite of offices. Mr. King continued with the committee.

CROSS-EXAMINATION:

Mr. John D. Mangum was the Chairman of the Republican State Central Committee. He made his headquarters there after the primary.

HARRY VIGER, a witness produced and sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at 138 East Pleasant Street, Grand Rapids. I have been ill. I have lived in Grand Rapids about 18 years or better. My age is 31. I am a speculator and dealer. In the spring of 1918 I was in and around Grand Rapids. After being told by the defendant George Welsh that he was going to have some workers and that I would be paid $25 a week I went to work for the Newberry Senatorial Committee. To be honest about it, all I remember is I went to work before the primary and did not work after the primaries. To be exact, I could not say how long during the primaries I worked. I do not think it was two months or three months—probably three to five weeks. I talked with Charley Floyd about this particular work after I went to work. I distributed literature and went to the factories and the like of that, distributing literature, and if Charley Floyd said, "Go to this factory today," I went. If anybody else in the Newberry headquarters was there, and said, "Make that factory that day," I went. Both George Welsh and Charles Floyd gave me instruction. I saw a good many different people up there who were in the office, in charge. Mr. Haskins was there, Mr. Floyd was there, Welsh was there, there was a girl in the office, I do not know—two different girls, I think—two stenographers. Besides Mr. Welsh and Mr. Floyd, Mr. Haskins might tell me what to do; the girl might say, "I want you to make a visit to-

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day to this factory," when a party came in, she might tell me. Besides working around the factories, I made out-of-town trips —Grattan and around—with my car. I went most any place. If there was a picnic, make the picnic, or at the Lake, I would make it at the Lake. If there was a farmers' picnic at Rockford, I would make it to Rockford. I went to Rockford, Cedar Springs and Lowell for this committee. I took literature with me, which I gave to everybody I met. I was not exactly delivering packages of literature to anybody. Of course, if I ran into somebody that was interested in Newberry, wanted to do something for Newberry, I gave him a package of literature so they could get busy. Sometimes I used to have somebody with me. I had some boys with me. The Committee paid the expense of the car besides my $25 a week, which included gasoline and oil, a puncture, and any little expenses. They would not pay for the body smashup or anything like that. They paid the expenses I had while using it for them. As close as I can remember, sometimes Floyd paid and sometimes some one else paid, I cannot just remember exactly; I guess they both paid me. I would not dare say for sure whether anybody else did or not. I was paid in cash in the Newberry headquarters. Defendant Dan Kennedy was working out of Headquarters doing much the same kind of work I was doing.

I do not know how much I received altogether, nor how much I received for the automobile keep. The way I submitted my bill to Mr. Floyd or Mr. Welsh was that I would just say I spent so much for this, and that was all there was to it, that is, at night I would tell them where I had been and what I had done, burned so much gasoline or oil. If I was out of town at noon, I paid for my meals. I have no way of telling how much I received altogether. I could not say who else was working at the headquarters besides myself and Dan Kennedy. One time, two men named Hurley and O'Donnell went with me; just was in there, and they said they wanted to go out and do some work for Newberry. I did not pay them, nor did I get the money for them, and I do not know as they got any money. I did not employ them. There were two rooms at this Newberry headquarters in Grand Rapids, just an ordinary office reception room and a room off of that, with a couple of desks in it. Mr. Floyd had his desk in the inside room. I could not say where he went to get this money for me. I never seen him go get any. He had it, I guess. I never seen him or Mr. Welsh go get it any place. Each time I went to them they reached in their pockets and paid. I did not see anybody else get paid up there.

ALBERT J. YOUNG, being duly sworn, on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Escanaba, this State, where I was born and have lived all my life. I am in the clothing business. I am acquainted with the defendant, James F. McGregor. I saw him in Escanaba during the spring of 1918. He called at my place of business I think the latter part of April or in May—it may have been later—and wanted to know if I would be willing to accept the management of the Newberry campaign for the northern part of Michigan, and I did not take it very seriously and told him I did not think I could afford to give up the time, and had not taken any active part in politics at all, did not feel that I would care to do it, did not feel I could afford to give the time up from my business. He said it would not require but little time, that I would simply have to rent a room, put a stenographer or clerk in charge and it would not take more than probably an hour a day of my time, and said before making any decision to think the matter over and he would see me later. As I remember, he said that I would be reimbursed for any expense incurred—in the expense of conducting the office. As far as I can recall, that is practically all that was said in regard to the expense. I think, I am not positive, I think I said I could not afford to give up the time from my business, and he stated that in all probability if it took up much of my time I would be reimbursed for the time I actually spent. I am not certain just what the conversation was about that for the reason that I did not give the matter very much consideration. I do not think he said anything to me about what his position was in connection with the Newberry campaign when he made this proposition to me. He called on me again, possibly a week or may be two weeks afterwards; I do not know; it was some time later. I stated that I had thought the matter over, and could not see my way clear to take charge of this campaign, and then he asked me if I would consent to take charge of the campaign in Delta County, which is my local county, and I also said that I could not do that. He said it would take very little time, simply look after the mailing, probably, of a few circulars, and would require but very little time. He was very anxious that I would take it, but I told him I could not see my way clear to do it. As I recall, he said, providing I made up my mind that I would not accept it, he wanted to know if I would suggest someone that I thought would make a suitable chairman for the county. I suggested he name of Judd

Yelland of our city. The last time I talked with him was the middle of June, the 14th of June, when I conversed with him over the telephone. I was in Escanaba, and he was at Iron Mountain. He had told some one, at least I had heard, that I was to have charge of the campaign, and I called him up; I wished he would not use my name in connection with the campaign, I could not give it the attention it required and I positively would not take charge of it. I think he had assumed that possibly I would take charge later. I told him I would not have charge of the campaign, and that I would prefer that he would not use my name any more.

CROSS-EXAMINATION BY MR. LITTLETON:

When I talked with Mr. McGregor over the telephone, I think he was, or had been, under the impression that I would take or accept this position. I think he had gotten that impression from talking with me, and I called him up to correct that impression, and to correct any statement he was making or might make about it. I had been meanwhile visited by an equally good friend, Mr. Green, who represented Mr. Chase Osborne, another candidate in the senatorial contest. The real reason why I felt I could not act for either Mr. McGregor or Mr. Green was because of my friendship equally for both of them.

WALTER L. CHAPPELLE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I reside in Harrisville, Alcona County, Michigan, and am the editor of the Alcona County Review. I met the defendant, Benjamin F. Reed, during the primary of 1918. I think he then lived in Bay City. He came to my office and asked me to take charge of the Newberry Campaign in Alcona County, and upon my declining that asked me to suggest some names of persons he could go and see. The substance of the conversation was that whoever took the campaign management would—well, the phrase was that the freight would be paid. There was no talk between us about the amount that the man would be paid that took the position. That came up in general conversation that we had in my office at that time. Whether he volunteered the information that it would be paid, or whether I said something about it and that was in reply to a question, I don't remember, but that was the substance of it. I don't know but that conversation was after I had declined. I named a number of several

men around town that he might see; I mentioned the name of Mr. Cook, City Clerk, Mr. Barber, County Treasurer, and I finally mentioned Mr. Rola E. Prescott of Lincoln, which is in the same county that I live in. Harrisville and Lincoln are seven miles apart. I told him he could use my phone to call Mr. Prescott, and he did. Later Mr. Prescott became active in my county in connection with the Newberry organization. I carried the advertising for the Newberry Senatorial Headquarters in my paper from the opening of the campaign. I think I had a circulation in the neighborhood of eight hundred at that time. I conducted a six column quarto weekly. My advertising rate was twelve cents. I received from the Newberry Committee for advertising between $75 and $80. I had a contract and carried something each week, I think. This advertisement came to me from the Newberry Senatorial Headquarters from Detroit. I think that was furnished in plates, but I do not recall. There may have been some both ways. I think my correspondence with reference to advertising matter was with H. A. Hopkins.

CROSS-EXAMINATION BY MR. LITTLETON:

I first met Mr. Reed during the Buhl campaign for Congress. I think that is eight years ago, though I am not sure. Mr. Reed was active in politics in that vicinity during that particular campaign, at least, and he was known in that community. I cannot fix the time when Mr. Reed asked me to take the management or direction of the Newberry interests in that community, except that it was rather early in the Primary campaign, when he used some expression that the freight would be paid. I don't know as I thought anything about it.

Q. You did not regard it as an improper proposal, did you, Mr. Chappelle?

MR. DAILEY: We object to that.

THE COURT: I sustain the objection.

MR. LITTLETON:: Exception. If Your Honor please, I think I have a right when two people were discussing this question, to test out how they regarded the transaction, whether they looked on it as one of impropriety, or whether they looked on it as one perfectly proper.

THE COURT:: The ruling is made.

MR. LITTLETON: Exception.

Q. As a matter of fact, you were for another candidate for United States Senator, were you not, Mr. Chapelle?

MR. DAILEY:: We object to that as not cross-examination, wholly immaterial here.

THE COURT:: I will sustain that objection.

MR. LITTLETON:: I ask leave to show that this witness had a reason for not accepting it because of his advocacy of another candidate in that campaign.

THE COURT: I can't see how it is material at all.

MR. LITTLETON:: Exception.

THE COURT: There has been no attempt to show otherwise —what the reason was or anything of the kind.

Q. I will ask you what your reason for not accepting the proposal was, Mr. Chapelle?

MR. DAILEY: We except to it, because it is not-cross-examination.

THE COURT: I will sustain the objection.

MR. LITTLETON: I except.

A. (continuing) I heard one side of the telephone conversation between Mr. Reed and Mr. Prescott, I don't know just the words, but Mr. Reed said something about meeting Mr. Prescott —when and where, I don't know; I don't recall. Mr. Reed told Mr. Prescott what he was there for, namely that he was interested in the campaign for Mr. Newberry up in that section of the country. That is all I can say about it.

RE-DIRECT EXAMINATION BY MR. DAILEY: :

I don't know as I ever saw Mr. Reed in Harrisville prior to the time I saw him there that day. I don't know anything about how many people he knew in Harrisville.

RE-CROSS EXAMINATION BY MR. LITTLETON:

When I mentioned Mr. Prescott, Mr. Reed asked me about who he was, and I called his attention to the fact that Mr. Prescott I thought was interested in this same campaign, that is my recollection of it. Mr. Prescott was an editor also. I think it came up in our conversation after I mentioned Mr. Prescott's name, that Mr. Reed was interested with Mr. Prescott in the campaign several years ago, prior to that time, for Congress. That was not my reason for mentioning Mr. Prescott's name to him, however. I knew also that Mr. Reed knew Mr. Cook, the City Clerk. But I didn't know he knew Mr. Barber.

GERTRUDE McGRATH, a witness produced and sworn on the part of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit, Michigan, and am a stenographer. In the year 1918 during the senatorial campaign, the primary, I was

employed in the Wayne County Central Committee's office by the defendant, Milton Oakman. I was employed on March 6, and continued to work until August 24, at a salary of $20 per week. I was given a raise once to $22. I talked with Mr. Milton Oakman himself at the time I received this raise. The defendant, Zalic B. Clago, was in charge of the branch of the office in which I was employed. Mr. Oakman was up at the office at times. I received my pay on Saturday afternoons. I was paid by the defendant, B. F. Emery or Harry Turner, over in the Newberry senatorial offices. Sometimes one of them paid me and sometimes the other. The pay was brought in to my room by one or the other of those gentlemen. This happened also as to the other persons who were employed in this branch. I have seen the defendant, Mr. King, up there. I have seen him in what was called the Wayne County office. That office connected with the other offices across the hall. I do not recall ever seeing Mr. Sibbens in the Wayne County offices. I saw him in the other place. I know where Mr. King's private office was. Two other girls besides myself were employed in this room which I have spoken of as the Wayne County headquarters—Katharine Ryan and Virginia Stapleton. I took dictation and copied letters a great deal of the time while I was employed there. There was a large circulation of literature through Wayne County. I do not know who it was that put the furniture in the rooms that the Committee occupied, nor by whom the rent was paid.

VAN A. LOOMIS, being a witness produced and sworn on the part of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is Jackson, Michigan, where I have lived probably fifteen years all told. Up until July , I have been a Deputy Sheriff, a special Deputy Sheriff and done private detective work. I was a Deputy Sheriff about five years, and I was a private detective with that. I have known the defendant Charles Deland for five or six years. He lives in Jackson, Michigan, and has a law office there. In the campaign of 1918 before the time of filing petitions to procure the names of the candidates to be placed on the ballots, I had a talk with Mr. Deland. I think I was in his office when I had the talk with him. I think someone told me he wanted to see me, if I remember right. I did see him, and I probably mentioned that; I don't remember it surely. He asked me if I would circulate some petitions for Mr. Helme for United States Senator. First I asked him about the

man, what kind of a man he was. I read of Mr. Helme in the papers some and he seemed to be all right. I finally told him I would circulate the petition. I did not know at that time that Mr. Deland was an officer of the Newberry organization in that county. He had served in the state Senate over there and I knew he was a Republican Senator at that time. There was but very little talk about the Helme petition, otherwise than to see how many names I could get, go ahead and work it, and that I would be paid for it. I think he said something like $20 or $25 I would receive for the work I would do. I got hold of two Helme petitions, if I remember right, which I got from the defendant Charles Deland. I attempted to circulate them, just got some names. There was probably room for 25 names on each of those two petitions I got. One of them filled down about two-thirds of the way and the other one maybe one-third or half the way down, I don't remember just how many. I probably had about thirty or thirty-five names. After I got them in that condition I took them back to Mr. Deland. I did not have very much talk with him, I simply went in and said: "Here is the petitions," and turned them in. I think he said he didn't have the change, or something to that effect, and we could come up tomorrow. I think his brother William was in the room; I think he asked his brother if he had any change. If I remember right his brother said "No," but the defendant said "Come up tomorrow." I went back the next day and got my money—$20. Mr. William Deland, the same one who was there when Charles Deland told me to come back the next day and get my money, handed it to me. I did not count up and I do not know how much I got for each of those names. Those two were all the petitions that I had carried, that is all that I had.

When Mr. Deland and I had our original talk I think he said that the time was short, or something like that was mentioned, but I do not recall just what it was now. I don't remember whether he told me what time I had to get them back.

RUTH GOLDSTEIN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit and am a stenographer. In the spring of 1918 I took employment with the Newberry senatorial headquarters in Detroit as the result of arrangements made with B. Frank Emery. I went to work there in the latter part of March or the early part of April, and continued until about two weeks after

the primaries. I think I got $18 a week during the entire time. I think Mr. Emery usually gave me my pay, but I received it from Mr. Turner if Mr. Emery was not there. I got it from one or the other of those two gentlemen. I worked in the general office copying form letters to a certain extent. During that time I acted as stenographer for Mr. B. F. Emery. I was the stenographer who took his dictation to a great extent. If I was not in the office, somebody else did. During the time I was there, I think I took letters from Mr. Emery to Terry Corliss, B. F. Reed, James F. McGregor, James Davis, and Rola Prescott, and I also met them in the office where they came on occasions. I think we had some correspondence with them. Besides letters, while they were out of the office, he sent them vouchers for expenses occasionally. I do not know the accounts, and I do not remember whether it was to each of those men. I could not name any of them particular, the names sound familiar to me, it might have been any of them. I saw Milton Oakman while I was up there in the Wayne County part of headquarters, I think. I do not remember seeking him anywhere else in headquarters. Mr. Fred P. Smith was employed in the building with the Newberry Estate. I saw him in the outer office several times. Mr. King was the only one who had an office of his own. There was not much room. Chilson's office was in the general office. With respect to mailing out literature to the field agents, Mr. Emery would just tell me to mail certain things to such and such a man and give me the name of the town it was to go to. I carried that to the party in the mailing department.

KATHERINE RYAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit, Michigan. I am a stenographer, and was employed from the latter part of April, 1918, until after the primary, in the Truman H. Newberry Senatorial Headquarters at Detroit. Miss McGrath, Miss Stapleton, Mr. Benoit and myself were employed in the same part of the headquarters. Mr. Clago was in charge. My work consisted of typing. I took no dictation. I addressed envelopes from a list of names that was furnished me and filled in letter-heads, that is all. I didn't have anything to do with the factory league organization. Work was done in the office with reference to what was known as the factory league but not by me. Mr. Clago had charge. I was hired

by Mr. Emery. I went over to Clago's office and finished out the campaign. When I first went there I worked over in the general Senatorial Committee office for one week only. My pay was eighteen dollars a week. I received my money from Mr. Turner, and sometimes from Mr. Emery. I was paid each week in currency. The others that worked in that same office were paid in the same way, and by the same person. So far as I personally observed, the men I saw whom I knew in either of the offices besides Mr. Clago were Mr. Hopkins, who was Mr. King's stenographer, Mr. Sibben and Mr. Milton Oakman. Mr. King was never in our office that I can recall. I was never in the other headquarters. I saw Mr. Floyd only about twice while I worked there. He was then in the State Senatorial headquarters. The letters and literature that I had to do with related to Wayne county only.

LISLE SHANAHAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Charlevoix, Michigan, and am a lawyer by profession. I think it was in our May term of court, about the 4th Monday in May, 1918, that Judge Harris, one of the respondents, either called at my office or asked me at the Court House if I was a Newberry man, and I told him that I was, and he suggested that we should have a committee in our county, and I agreed with him. Judge Harris came to my office and Judge Harris and I formed the committee. Judge Harris was chairman, and treasurer of our committee, and Mr. Dwight Fitch of East Jordan was the Secretary. I was just the balance of the committee without title. Mr. Fitch was not present at the meeting at which the Committee was formed, just Judge Harris and myself. As I recall, I suggested to Judge Harris that the part of the county that I was supposed to look after, consisting of nine precincts, that the cost of it would be probably thirty-five or forty dollars. I believe that I suggested that Mr. Fitch, the secretary, would probably need forty-five or fifty dollars, would be sufficient money to take care of the campaign. I do not recall that Judge Harris ever said anything to me at that time, or at any other time, about having been at the Committee's office at Detroit or having communicated with the office at Detroit. Sometime after this meeting and prior to the primary day, Judge Harris handed me forty dollars. I think that the only expense that I ever told him about was the employment of a challenger for the precincts in the city of Charlevoix; that is, we have a consid-

dated voting place there for three precincts. I just reported to him that I had expended this five dollars for a challenger. That was after he had given me the forty dollars. I never rendered any statement or account to Judge Harris or anyone else other than that. As to the remaining thirty-five dollar fund, I made one or two trips to Boyne City. The cost of these trips, if you hire an automobile in our town, would be about six dollars. Well, I didn't hire an automobile; I used my own. Then at the election night, that is the primary election night, I took the returns in my office. I took the returns not only for the Newberry Campaign, but also for our local campaign and the Congressional campaign, and then—I can't tell you how much the telephone calls cost, but I would imagine something like twelve or fifteen dollars, and then everybody came there that wished to, public place as far as that is concerned. The next morning I had my office cleaned. I don't know whether I paid for that out of the fund or not, but that was the expense I had in that campaign. The money that Judge Harris had given me was used by me in the ways I have now stated to the jury.

CROSS EXAMINATION BY MR. LITTLETON:

I did not support Senator Newberry because of the fact that I had been given money for expenses in the county. I was a Newberry man long before this.

Q. Did you accept this money and expend it with any thought that you were committing any wrong?

MR. EICHHORN: Just a moment—

THE COURT: I sustain that objection.

Mr. LITTLETON: Exception.

Q. Did you expend it in any other way except what you believed in the honest expenditures of the campaign and for honest purposes?

MR. EICHHORN: Wait just a moment; again the Government objects.

THE COURT: The objection will be sustained.

MR. LITTLETON: Exception.

THE WITNESS: (continuing) I have known Judge Harris since June, 1900. He has at different times occupied an official position in the county; been prosecuting attorney—

Q. What were those positions?

MR. EICHHORN: If the Court please, we object on the ground it is not cross-examination.

THE COURT: I will sustain the objection.

MR. LITTLETON: Exception.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

The paper now shown me, marked Government's Exhibit No. 1, is a letter which I received about the 20th of April. The signature in Paul H. King's. The paper marked Government's Exhibit No. 2 is a carbon copy of a letter written by me to Paul King, July 22nd. The original of that letter was enclosed in an envelope addressed to Mr. King, stamped and deposited in the United States mail, together with the enclosure consisting of a nominating petition for Mr. Newberry that I had circulated. The two papers marked Exhibit No. 3 are letters that came to me in due course of mail. The signatures to those letters are Paul King's. They were received by me about July 25th or 26th and about the 3rd or 4th of August, respectively. The paper marked Government's Exhibit No. 5 was received by me in due course of mail sometime in August, and a month after I had sent in the petition to which I have referred. I do not know the signature to the letter.

The five papers referred to were here offered and received in evidence, without objection, and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 1

TRUMAN H. NEWBERRY
For Republican Nomination for United States Senator.
310 Ford Building,
Detroit.

State Committee:
A. A. Templeton,
General Chairman.
Paul H. King,
Chairman, Executive Committee.
Chas. A. Floyd,
Secretary.
H. A. Hopkins,
Director of Publicity.

April 17th, 1918.

Mr. Lisle Shanahan,
Charlevoix, Michigan.

My dear Mr. Shanahan:—

I have learned from a mutual friend of a recent conversation with you upon a railroad train, and of your kindly reference to myself. I want you to know that it is greatly appreciated. One of the pleasant things in connection with my association with the Pere Marquette Railroad was the fact that I made the

acquaintance of so many fine people about the state whom I may now claim as my friends. Among these, I am glad to count your own good self.

As you may know, I am taking an active interest in Mr. Newberry's behalf as a candidate for the United States Senate, and I am hoping that you can help me some in Charlevoix County. If so, I will appreciate it very much. Mr. Newberry is the kind of a man who would, I am sure, appeal to you and I am confident you will not regret anything that you may say or do in his behalf.

I shall hope to hear from you and to know how you feel about the matter.

With kind regards, I remain,

Sincerely yours,

PHK S (Signed) PAUL H. KING.

GOVERNMENT EXHIBIT NO. 2.

July 22, 1918.

Mr. Paul H. King,
710 Ford Building,
Detroit, Michigan.

My dear Mr. King:—

Inclosed you will kindly find nomination petition for Mr. Newberry. I trust that there are sufficient names from our city. I could have secured more if I had deemed it necessary.

With kindest regards, I am,

Respectfully yours,

GOVERNMENT'S EXHIBIT NO. 3.

July 24, 1918.

Mr. Lide Shanahan,
Charlevoix, Michigan.

My dear Mr. Shanahan:

I am in receipt of your good letter of the 22nd inst., enclosing the fine petition which you secured there. It was kind of you to take this interest and we are all grateful for your helpfulness.

The campaign is progressing splendidly and we are very much pleased with the outlook. We are making a thorough canvass in all parts of the state and the assurances that have already come to us give every promise of success. We are in to win—expect to win—and with the active co-operation of such good friends as yourself, there can be no doubt about the matter.

With all good wishes, I remain,

Sincerely yours,

PAUL H. KING.

GOVERNMENT'S EXHIBIT NO. 4.

August 2, 1918.

Mr. Lisle Shanahan,
Charlevoix, Michigan.

My dear Mr. Shanahan:

Mr. Floyd has told me of the splendid work you are doing in behalf of Commander Newberry's candidacy for the Senate and I want you to know that it is very much appreciated indeed.

He is certainly an ideal man for the place at this time and I am sure you will not regret giving him you active support. With the help of all our good friends there can be no doubt as to the outcome. We are receiving excellent reports from all over the state and I am more than ever confident that we are going to win. Let the good work go on.

If you have any information or suggestions which you think I should have at any time, please do not fail to let me have them.

Again thanking you, I remain, with all good wishes,

Sincerely yours,

PAUL H. KING.

GOVERNMENT'S EXHIBIT NO. 5

New York City,

Mr. Mike Shanahan,
301 Michigan Avenue,
Charlevoix, Mich.

My dear Mr. Shanahan:

I note with pleasure your name on one of the petitions nominating me for United States Senator and wish to thank you for this expression of your confidence in me.

August 17, 1918.

My work in the Third Naval District will prevent me coming to Michigan to see you personally, as I would very much like to do, and for that reason I am writing.

I shall try always to merit your approval and esteem. With all good wishes, I remain,

Sincerely yours,

TRUMAN H. NEWBERRY.

ALLAN K. MOORE, one of the defendants named in the indictment but who had entered a plea of nolo contendere, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Grand Rapids and am in the printing business with the Onderdonk Printing Company. I am fifty years of age. I have lived in Michigan all my life, and, with the exception of about five years, in Grand Rapids. During that period I lived in Marquette. I moved from Marquette here the first of April, 1918. Soon after that I saw the defendant, Paul King, in Detroit. Either the defendant, Charles Floyd or a man named C. A. Daniels, had previously told me that Mr. King desired to see me there. I think Mr. Daniels told me to see Mr. Floyd, that he was going to Detroit that evening, and Mr. King wanted to see me in Detroit. I saw Mr. Floyd in the Hotel Pantlind, in Grand Rapids. If I remember rightly, he said that Mr. King wanted me to go in the Upper Peninsula and do some work for Mr. Newberry. He and I went to Detroit that night. I saw Mr. King the next morning at his offices in the Newberry headquarters in the Ford Building. I think Mr. Floyd was up there also. It strikes me one of his stenographers was also present, but I am not sure. I told Mr. King I understood he wanted me to go into the Upper Peninsula and do some work up there. He said he did, and gave me a list which we talked over of names, that I should call on up there, and he also wanted me to go to Battle Creek to see Mr. John D. Mangum, who was there sick, and have a talk with Mr. Mangum and have him suggest men to see in the different counties up there. I think Mr. King mentioned to me as those he wanted me to see in the Upper Peninsula, Mr. M. M. Duncan, General Manager of the Cleveland Cliffs Iron Company, Mr. Moriarty of Crystal Falls, Captain Richards of Crystal Falls, Bob Douglas, at Ironwood, and a banker at Munising whose name I forget. There was no further conversation except that he wanted me to see these men there, and see how they stood for Mr. Newberry and report back to him. I think I was to make daily reports. I did make daily reports. I was given $100 at that time to cover my traveling expenses and hotel bills. I do not remember whether he suggested it, or whether I suggested I needed it—had to have it. We came out of his office and I think Mr. Emery, the defendant, was there. He says, "Give Mr. Moore $100 expense money," and Mr. Emery gave me a check on the Commonwealth Savings Bank of Detroit for $100 at that time. I went to Battle Creek and saw Mr. Mangum. From there I went to Marquette in the Upper Peninsula. I worked in the City of Marquette, calling on the people that I knew for several days, finding out whether they favored Mr. Newberry or not.

Then I went to Ishpeming to see Mr. Duncan, Mr. Trebilcock and Captain Keyes, and one or two other mining men there. Then I went to Munising and saw several of the leading men over there, County officials and this banker whose name I do not remember. I went from there to Crystal Falls and I saw Captain Richards and Mr. Moriarty, and another Mr. Richards who was in charge of a mine at Alpha right out of Crystal Falls. These were the names that Mr. King had furnished me to see. I wrote Mr. King every evening telling him what I had found and whether these men were favorable or unfavorable. I was in the Upper Peninsula a couple of weeks, and left there about the twentieth or twenty-first of April. Then I came to Grand Rapids, arriving the Saturday following the twentieth of April. When I reached Grand Rapids, I had a long distance telephone call from Detroit that Mr. King wanted to see me and wanted me to go back to the Upper Peninsula with him. He said he was going. Mr. King requested me to come to Detroit Saturday night and meet him Sunday morning. I went. I did not get a chance to meet Mr. King at his office, but I came back on the Michigan Central train as far as Kalamazoo with him by pre-arrangement. During the ride on the train with Mr. King from Detroit to Kalamazoo we conversed about the general conditions as I found them in the Upper Peninsula along the lines of the letters I had written. Names were taken up and I made my report to him verbally. My salary was fixed at that time. I simply said, "Paul, you have not fixed my salary yet. How much am I supposed to draw out of this?" I do not just remember the exact conversation, but the salary was fixed at $75 per week. In that talk, or in the original talk I had with him in his office, Mr. King said they were going to have an organization in each county, that there was going to be a chairman and secretary, probably, in each county, and a committee formed of Republicans in each county to look after the interests of Mr. Newberry in those counties. Before I left Mr. King on that trip, it was arranged that I should meet him at Marquette within two or three days. I did so, returning to Marquette about the 22nd or 23rd of April, where I met Mr. King. He stayed at Marquette just a day, I think—a day and a night perhaps. Mr. Sibben was with him there, but no other person from headquarters. On that trip, I think I stayed at Marquette about two weeks. During that time I was just calling on men that I knew, and advertising Mr. Newberry's candidacy by conversation and literature. At that time I had not commenced to have anything to do with the Newberry petition. After this trip I went to Detroit, where I think

I saw Mr. King in the Newberry headquarters, and had a talk with him. I do not recall anything special that was said at that time about my work by Mr. King, except that I had done good work up there in the northern Peninsula, and that he wanted me to go to Flint to see the defendant Benjamin F. Reed, who had started out to do some field work and was taken sick and was in a sanitarium in Flint. He also told me that the reason I was taken out of the Upper Peninsula was because the defendant Roger Andrews objected to my work there. He told me this first in Marquette, and then, I think it was during this conversation after I had returned to Marquette, he told me he had another telegram from up there insisting that I be pulled out of the Upper Peninsula. I know of no reason except that Roger Andrews did not want me to work up there. I think he told me at that time that Mr. Andrews had charge of the work in the Upper Peninsula. After Mr. King requested me to do so, I went to Flint to see Mr. Reed. I found him quite sick. We talked about the counties north of Bay City that Mr. Reed had started to look after before he was taken sick, and he gave me some names, which I do not remember, of different men in those counties to call on. He had seen several men in practically all of those counties on the east shore north of Bay City. Alpena, Cheboygan, Ogemaw, Crawford, and Alcona are about all the counties he spoke of that I can remember now. After my talk with Mr. Reed, I went back to Detroit, where I think I saw Paul King. I also saw the defendant Emery, who talked to me about going up in those counties, and it was practically arranged, as I supposed, that I was to go there, but whether or not it was that day, or after I got back to Grand Rapids, the plans were changed, and I did not go up there. Mr. Emery simply went over this list of names and talked about who I would call on. I think it was Mr. Emery who told me the plans were changed and that I was not to go into those counties. He told me I was to report to Mr. Floyd at Grand Rapids. I did so during the week ending May 18th. Up to this time I had drawn a salary of seventy-five dollars a week for that time, which was paid to me by whoever happened to be in the office—either Mr. Turner or Mr. Emery. It was paid to me in a pay envelope, in cash. Soon after I came over to Grand Rapids to report to Mr. Charles Floyd, I had a talk with him at the headquarters here in the Commercial Savings Bank Building. As near as I can remember, he said that he had work that would keep me busy all summer, and he thought I would like it better than I would the chasing around in the Upper Peninsula, and all over the state; that he had made ar-

rangements through the defendant, Dr. William Smith, of Muskegon, and with George R. Murray, President of the Railway Men's Relief Association, whereby Mr. Murray would give me letters of introduction to different railroad men who were members of this organization in those various cities for me to call on, and asked me to go to Muskegon and meet Dr. Smith, which I did. After seeing Dr. Smith, I got in touch with George R. Murray. He published a monthly magazine in connection with the association, which is mailed to all of the members. Mr. Murray gave me a letter to officers of this association in Detroit, Port Huron, Saginaw, Bay City, Holland, St. Joseph, Benton Harbor, Manistee, Ludington, Cadillac, Grayling, East Jordan, Traverse City, Boyne City, and Mackinaw City. I was in Muskegon just a few hours. I think he prepared the letters afterwards, and I think I went back in a few days, two or three days afterwards, and got them. In the meantime, I saw Mr. Floyd. I told him the progress I had made with Mr. Murray and that he was going to give me letters to these different men. Nothing further was said at that time, except that Mr. Floyd said that Dr. Smith wanted to take that first trip with me, and Dr. Smith did take that first trip. Mr. Floyd told me that he wanted me to go to these men and get them to circulate petitions for Mr. Newberry, and he says, "You cannot expect that they are going to do this work for nothing;" and he gave me in person in the office, I think at that time, $300.00 in cash to pay these men for the work they did. I informed Mr. Floyd just what had occurred between myself and Mr. George Murray and Dr. Smith. At the time Mr. Floyd and I made the first arrangements, I met him at the office here. I think Dr. Smith and I set the date that we were going to start the second time I was in Muskegon. We first went to Detroit. There we called upon Mr. Jack Murray, a brother of George Murray, and secretary of that organization at the branch of this Railway Men's Relief Association, and presented this letter that I had from George Murray. I do not think I had any Newberry petitions with me. I think we got them on that trip at the headquarters down there in the Ford Building, in Detroit. Dr. Smith and myself went there while we were in Detroit. I turned over some of these petitions to Mr. Jack Murray. I do not know whether I gave him anything else at that time or not. I saw him three or four times later during the summer. I paid him money two or three different times, as near as I can remember $250 in all. I called with Mr. Jack Murray one or two days at the different street car barns and different railroad yards and met different men. I do not think I paid out any more

money. I thing Mr. Murray was the only man I paid any money to at Detroit. I remained in Detroit just a day or two at that time—one day I guess. From there Dr. Smith and I went to Port Huron, where we saw Alexander Murray, another brother of George Murray, and had a talk with him. I had a letter from George which I presented. I left some petitions with Alexander Murray, and I think I left either $20 or $40 with him at that time. I did not see anybody at Port Huron that I recall besides this one man. I think probably I met some railroad men around the yards there, but I do not recall who they were. The next places I visited were Saginaw and Bay City. We did not see anybody at Saginaw at that time because the man we wanted to see was not there where we could get in touch with him. I saw him on my next trip. The man was Mr. Hicky. I presented my letter and paid him $25, as near as I can remember, for the work he did. Then I went to Bay City, where I saw John Poltney, who is a baggageman at the Pere Marquette depot. I paid Poltney altogether, I think, $75, as near as I can remember. I paid him money two or three different times. Dr. Smith was with me on this trip to Detroit, Port Huron, Saginaw and Bay City, and he remained with me during all that time, and I think he was with me when I paid the money to these men. From Bay City I came to Grand Rapids, where I saw Charlie Floyd. I told him the conditions as I found them in those towns and the people I had called on, what I had done in the way of arranging for the work and the amount of money I paid them. I stayed in Grand Rapids just over Sunday, if I remember right, and then went to Cadillac, Grayling, East Jordan and Boyne City. Before I left, I think Mr. Floyd gave me some more expense money in cash—money to pay these workers at that time. I cannot remember how much money he gave me. At Cadillac I saw James Murphy, the yardmaster for the G. R. & I. I paid him $20 for the work he did later, on the second trip around. He was the only man I saw at Cadillac. At Grayling I saw Alex. Mason, a superintendent of a Michigan Central roundhouse. I paid him either $40 or $60, as near as I can remember. I saw several other men there, but he is the man I transacted the business with, and the only one I paid. At East Jordan I saw Earl Farmer, an engineer on that little logging railroad running out of there. I think I paid him $40. From there I went to Boyne City, where I saw Fred Curtz, an engineer, to whom I paid $20 later. I think I went from there to Traverse City, where I saw two railroad men, one of the name of Drinan, also a Mr. Knaggs. I think one was a brakeman, and the other a clerk in the freight

office. I did not pay them or anybody else anything in Traverse City. From there I went to Manistee, where I saw Joseph Linder, a machinist in the railroad machine shop, who was secretary of the Relief Association. I think I paid him $20. That is the only man I saw, and the only money I paid out to men in Manistee. I think I came back to Grand Rapids then and went to Battle Creek, where I saw and talked with Mr. Lambert. I think I paid him $20 on the second trip. I did not see anybody else in Battle Creek. Then I think I went back to Port Huron, Saginaw and Bay City to call on the same men and to collect the Newberry petitions they had circulated. At Saginaw this trip I saw Mr. Hickey and arranged with him to circulate some petitions, and I picked up quite a number of petitions in Port Huron and Bay City that had already been filled. I got back to Grand Rapids the last of the week, if I remember right.

I have named every place I went then, so far as I now recall, unless I went to Flint on that trip; maybe I did. I made two trips to Flint, where I called on Mr. Myers, who has charge of the Pere Marquette freight business in that town. I think I paid Mr. Myers $80 altogether, and I think I paid A. D. Cole, the yardmaster of the Grand Trunk, $5. I paid Ray Larabee, a man who works for the interurban, $10.

On the occasion of my first visit to Battle Creek, I met a man by the name of Allen, who was an engineer on the Grand Trunk. The first time I went down there, I paid him $140. I gave him $52 once or twice after that—I think twice; I also went to Jackson, where there was a man by the name of Lloyd, Secretary of the Association, to whom I think I paid $40. In Ionia I think I paid a man by the name of Benjamin $5. There was another man at Flint, I think, Clarence McNulty, that I paid $10 to; and a man by the name of Dacey at Mackinaw City $10. I think that covers it. I did not take receipts from these men for the sums that I paid them. I always paid them in cash each time. No receipts were taken for the $140 payment to a Mr. Allen or for any other sums in the neighborhood of a hundred dollars. Each time I paid these sums, I made a report to Mr. Charles Floyd, from whom in each instance, except one, I got the money that I paid out among these railroad people. That time I got it at the Newberry headquarters in Detroit, either from Mr. Emery or Mr. Turner. I would not be sure now that I got this at this particular time in Detroit, but it seems to me there was one time I did get some money for this railroad work at the headquarters in Detroit. In any event, all the money that I paid out to these railroad men was from either Mr. Floyd, Mr. Emery or

Mr. Turner—one of the three of them, and in all of the instances, except one, from Mr. Floyd. I am not sure whether or not there was even this one exception. I never executed a receipt at the times that Mr. Floyd would hand me these various sums of money, and I never gave him one. I think my work continued twenty weeks at the same salary I have heretofore mentioned. It was never paid out of the Grand Rapids headquarters, but in the headquarters at Detroit, and always in cash—pay envelope. I did not receive it every week; sometimes it was two weeks. While I was doing this work, the only other men I remember meeting, who were working in any particular line for the Newberry Committee, were James McGregor and Mr. Phillips, whom I met in Detroit and Captain Tufts whom I met on a train who said he was working among the marines. From the time I was assigned to this railroad work by Mr. Floyd up to the end of my employment, I did no other line of work, except that during the last week of the campaign I went back to Marquette at the request of Mr. Mangum. After the first two talks I had with George Murray of Muskegon, I accompanied him on his annual visit to each of his different branches of this railroad organization. We went to Jackson, Saginaw, Bay City, Grayling, Mackinaw City, Manistee, Ludington, Holland, St. Joe and Benton Harbor. The line of my work at that time was just talking at the organization meeting. I attempted to make a speech, and Mr. Murray also. I paid practically all the expenses of this trip, including Mr. Murray's, out of my personal expense money that I got from the Newberry headquarters in Detroit. I happened to make this trip with George Murray because he suggested it on one of the visits I had with him in Muskegon, I spoke to Mr. Floyd about it afterwards, and he thought that it was all right. I paid the expenses of Dr. Smith and myself on the trip we made out of my traveling expense money. During the time that I worked for the Newberry committee I received $1,500 salary, and the committee paid me $1,219 expense money. As near as I can remember, between $800 and $900 was delivered by these people to me for me to deliver to the railroad men as I went about the State. The total sum that I received during the term of my employment was approximately $3,500; it might have been $3,600 or $3,700.

CROSS-EXAMINATION BY MR. LITTLETON:

I understood the Railroad Men's Relief Association had something over ten thousand members. I had met Mr. Paul King before I saw him in the Newberry senatorial headquarters in the

Ford Building in Detroit. I met him several times while he wa
living at Grand Rapids. Before this I had known Mr. Flo
eight or ten years. He and I had been intimate friends. We ha
had intimate relations, business relations, and friendly relatio
for seven or eight years, anyway. As I remember when I a
rived at Mr. Paul King's office in Detroit, I was already a Ne
berry man and I believed it was best to elect him senator. Th
first thing Mr. King asked me to do was to go to Battle Creek an
see Mr. John D. Mangum, chairman of the Republican State Ce
tral Committee whom I had known very well for five years.
had been very intimate with him, politically and socially. In th
conversation with Mr. King on that first occasion, in additio
to asking me to go to see Mr. Mangum, he asked me to go
the Upper Peninsula, where I had been for about five years, an
where I have a rather wide acquaintance. Mr. King asked me t
go to that portion of the Upper Peninsula with which I was be
acquainted. I think I told him on that occasion the people whos
I knew and the vicinities with which I was familiar. I do not re
member that I indicated to him the places to which I could g
with familiarity and with ease, except Marquette County.
was particularly familiar with Marquette County, having live
there five years. I had been in the newspaper business ther
which had brought me in contact with a vast number of people
and Mr. King knew it. That first conversation with Mr. Kin
related to nothing more than the visit to Battle Creek to see Mr
Mangum, and the trip to the Upper Peninsula. I understood tha
the $100 cheque that was given me on leaving Mr. King's offic
was for my use as expenses in making this trip. I saw Mr. Man
gum two different times in reference to political matters. From
Battle Creek I think I came to Grand Rapids, and then went t
Marquette County. My object in going there was to call on th
men of more or less prominence that I knew particularly, and
advertise Mr. Newberry's campaign. Mr. King and I had talke
over a list of men that I was to see. In addition to that, I called
on practically every one I knew. As near as I can remember
the names which I discussed with Mr. King in my first interview
with him were Mr. Duncan, general manager of the Cleveland
Cliffs Iron Company, and Captain Keyes, an official in a mining
company. They were nearly all mining officials, one newspaper
man, one or two lawyers, a banker or two, also a man named
Moriarty, who was a State Senator, so that the list of men that I
was to call on, and had discussed with Mr. King, included mining
officials, manufacturers, lawyers and public men, or some public
men and editors of that particular locality. My object in calling

upon these particular men was to get their support, and forming an organization in each County for Mr. Newberry. I did not know whether these men or any of them were for Mr. Newberry until I talked with them. I found out when I talked with them that they were. On arriving at Marquette I found it to be a fact that the men we had listed and discussed with Mr. King were men who were favorable to Mr. Newberry's candidacy. The first object of my trip was to visit each of these men, and that was the first thing I did. I discussed with them, slightly, the formation of an organization for the county, but I had no authority to form an organization. I was just looking over the ground to report to Mr. King who would be the best man, and whether they were favorable, and so on. Having in mind the matter of the possible formation of an organization, I should say I saw ten or a dozen men on that subject. I reported to Mr. King the fact that I had seen them, that they were favorable to Mr. Newberry and the prospects of an organization there. In addition to sounding out these dozen or so men, I called on everyone I knew, and my friends. The population of Marquette was 15,000. I had quite a wide acquaintance there, and made it my business while there to call upon every person whom I had time to call upon. I think I was in the Upper Peninsula about three weeks on my two trips; it might have been three weeks and a half altogether —I do not just recall. The whole object of these trips was the sounding out of the sentiment regarding Senator Newberry's candidacy and the promotion of it, as far as I could, through my own individual acquaintances. From Marquette I went to Munising, Ishpeming, Crystal Falls, Iron River, Ironwood, and from there home; and in each of these places I did as I had done in Marquette with reference to the Newberry candidacy. My first trip, consumed about two weeks, and started around the 7th to the 10th of April, if I am not mistaken. During those two weeks I expect I saw 100 people in reference to Mr. Newberry's candidacy—maybe more, maybe less. On my return from that trip I made my report to Mr. King on the train between Detroit and Kalamazoo, but I wrote him practically every night while I was up there. In these nightly letters I gave him the condition of affairs as I saw it on the particular day that had just gone by, and then on my return I supplemented the whole matter by a general verbal report. As I remember it, besides the check for $100 for the payment of my expenses, they wired me $100 at Marquette which was also for expenses. I made the arrangement with reference to my weekly salary on the train between Detroit and Kalamazoo.

Mr. King had told me in my first talk with him that he intended to form a Newberry organization in every county in the state. I do not remember whether Mr. King told me what object he had in having me meet him at Marquette. I cannot remember that anything special was mentioned as to why he wanted me to go back there, except that perhaps it was in order that I might introduce him to people with whom I was acquainted or some of them. As a matter of fact, I did meet him there and did introduce him to men with whom I was acquainted. I did not see very much of him while he was there. He was busy—out of town and in town, and I think the only time I had any interview with him at all to amount to anything, was one evening for about half an hour. During the time he was busy, I was calling on people I knew around town, sounding the sentiment again, the same as I did before. I was advertising Newberry's campaign. I had some literature which I distributed. I went about that by going to a man that I knew and handing him one of the cards or folders and telling him that I was working for Mr. Newberry. I think I left little packages of literature with a large number of people, merchants and people who were friends of mine, and were favorable to Mr. Newberry. I was in Marquette a week or ten days on this trip, if I remember right, and Mr. King was only there, if I remember right, two or three days. From Marquette I went direct to the headquarters of the Newberry Senatorial Committee in Detroit, and from there to see Mr. Reed at Flint, who was quite ill in the sanitarium. I went to see him to find out the condition of his health and to get what information I could about the conditions in those counties north of Bay City. I am not familiar with those counties up there on that shore, but they included Alpena, and Cheboygan, and Crawford; I forget the rest. On my return to Detroit, I reported to Mr. King the information I had obtained from Mr. Reed. I had a talk with him and told him Mr. Reed's condition. Within a day or two it was determined that I should not go to those counties. I then came to Grand Rapids and eventually reported to Mr. Floyd. The next work that I undertook in reference to the Newberry candidacy was calling on these railroad men. Mr. Floyd directed me in reference to that work. I would not want to say that there are about 14,000 members of that association. As I remember it, it was something over 10,000. I know they have got a good membership. They have branches out of the state. I do not remember what the Detroit membership alone of that organization was. I did not know it is about 7,000. After Mr. Floyd detailed me on that

work, the first man I came in contact with reference to the campaign was Will Smith of Muskegon. He is a dentist and was a Newberry man, and was identified with the local committee here. I never had met him before. Mr. Floyd told me to see him. From Mr. Smith I went to Mr. George B. Murray, the President of this Railway Men's Relief Association. I talked with this Murray about my purpose and object in going among the men of the association. Either Mr. Floyd or Doctor Smith had already talked to him about it, and he knew what my mission was when I called on him, and we talked over the best ones in each town to circulate petitions, and so on. I was engaged in going amongst the members of this association for the purpose of circulating petitions to be signed, petitioning for the nomination of Newberry for senator. That was what I supposed to be the errand that sent me amongst these men, and all I asked those men to do was to circulate those petitions. Both Mr. Murray and I were very anxious to have Mr. Newberry nominated, as far as that goes, and we also talked that over. The original and first preliminary work was to have the petitions circulated. After I had this conference with Mr. Murray, I went to Detroit to see his brother, Jack Murray. I told Jack Murray that I had had an interview with his brother, who was the President of the Association, and that the object of my visit to Detroit was to get him to have petitions circulated in all the street car barns and all the railroad yards in the city, together with Newberry literature. He said he was for Newberry, and that he would undertake the work. I do not think he agreed to do it himself; he was to get someone to help him. I knew as a matter of course, that he had to get somebody to help him distribute the literature and circulate the petitions. I do not remember whether I gave him any money that first interview or not. I either gave it to him, or told him I would give it to him. I was giving him the money for hiring men to circulate the petitions and distributing the literature. That is the reason I arranged—either at that time or at some future time that I would give him the money. This talk with Jack Murray in Detroit took place during the week of June 8th. After this I went next to the other brother, Mr. Alexander Murray, at Port Huron. He is a yardmaster at the Grand Trunk, but I do not know whether he holds an office in the organization or not. I did not know Alexander Murray except by the introduction from his brother. I told him the object of my visit was to circulate petitions and literature. I also told him about the arrangements I had made with his brother in Detroit, and about my conversation with his brother, the presi-

dent of the association. Alexander Murray was also a Newberry man. I made arrangements with him to have him secure three or four different men in each department of the car shops there, and amongst the switchmen, and so on, to circulate petitions, and also left some literature for him to have circulated; and I made arrangements to pay for the services of these men—whatever expense he was put to paying these men that we would reimburse him. From Port Huron I went to Saginaw. The man I wanted to see was away; but I saw John Poltney, the baggageman at the Pere Marquette depot. He was a member of this association and a local officer. I think he was Secretary. I do not know as I told him anything about my previous trip to Detroit and Port Huron. I told him about Mr. George R. Murray, who, when I started out, gave me a letter to each one of these men that I called on in various towns. When I saw John Poltney, I told him I had come there to get him to circulate Newberry petitions and literature, and so on. He said he would be glad to do it, and that he would get certain ones to help him. I told him, with reference to the payment of the expenses of those whom he might get to help him, that we would make it right with him. I think I gave him either $20 or $40 on that first visit. When I said I would make it right with him, I meant that I would pay whatever the expense of the work was. After this I next went to Cadillac, I think, on the same mission and for the same reason. If I had a letter from George R. Murray, it was to James Murphy, the yardmaster. I do not remember he was a member of this same association. I do not know whether there is an organization in Cadillac; perhaps there is, but it strikes me that Mr. Murphy is simply a friend of George R. Murray's. I told Mr. Murphy that the object of my visit was to get petitions for the nomination of Mr. Newberry for Senator and the circulation of literature. He said he could do it, and he would also give a petition to one or two brakemen that run north and south out of there, so on and so forth, men working around the yards. I think I paid Mr. Murphy $20 for his work in connection with circulating the petitions and the literature. I think I went from Cadillac to Grayling, where I saw Alec Mason, superintendent of the Michigan Central roundhouse and yards there. I think he was secretary or treasurer of this Railway Men's Relief Association. I explained to Mr. Mason the object of my visit and told him I would like to have him circulate petitions among the men. He said all right, he would. If I remember right, he gave one to a brakeman running to Mackinaw, and also the superintendent of the telegraph lines that work up and

down the roads. I paid him $40 or $60. The purpose of paying him that money was the same as in all other cases I mentioned—for circulating petitions and literature. The next man I saw was Earl Farmer, an engineer at East Jordan. He was a member of the association. I think he was local secretary. I think I had a letter of introduction to him from the President, George R. Murray. I told him the object of my visit, the same as in the other cases, and he engaged to circulate petitions and literature, and I paid him some money for that purpose. I did not pay him, nor did I pay any of these men whom I have mentioned any other money for any other purpose than I have already stated. I think all these men that I approached on my trip up to date were Newberry men. They all seemed to be in his favor when I met them. From Earl Farmer I went to Boyne City and I saw Fred Curtz, an engineer. It was the same case with him as it had been with the others, a letter of introduction, the object circulating the petitions and the literature, an arrangement with him to do that, and the payment of, I think, $20 to him; and the purpose of the payment was to defray any expense of circulating the petitions and the literature, and no other purposes that I know of. From Boyne City I went to Traverse City, where I saw Mr. Grinan, chief clerk in the freight office, and at that time a member of this Railway Men's Relief Association. I explained to him the object of my visit as I had to the others. I made an arrangement with him by which he was to see to it that these petitions were circulated and this literature was to be circulated. I left some literature and petitions with him, but I do not remember what was said with regard to expenses. I never got back to see that man, and I do not just remember what was done. I do not think I paid Mr. Drinan any money at all, but I did intend to make the same arrangements with him to defray expenses as I had in other cases. Then I went to Manistee and saw Joseph Lindner, who was in a machine shop of the railroad company there, and also a member of this same association. I asked him to take the Newberry petitions and circulate them and left him some literature to circulate amongst the men in the shops—his gangs around the railroad yards, and so on. I think he said that he could look after it himself. From Mr. Lindner I think I went to Grand Rapids, and then to Battle Creek, where I saw Mr. Lambert about the same mission and in reference to the same sort of work. I explained to him the object of my visit and that I wished to engage him to circulate these petitions and the literature. He agreed to do so and I gave him $20, if I remember rightly, for

the purpose of paying the expenses of that work. I think I then went back to Port Huron, Saginaw and Bay City. Then I went back to Port Huron to gather up the petitions that had been filled, and get them to the headquarters. In Port Huron, on the second round, I saw Alexander Murray. I do not remember whether I got the petitions or whether he had sent them in before I got there; some of those petitions were sent in and some of them I secured on my second trip around. In this particular case my best recollection is that I got them from Murray. I think I paid him some money the first visit, and I also paid him some the second visit, for getting the petitions and the Newberry literature circulated. That was my purpose in each instance where I paid this money. From Port Huron, on the second trip, I think I went to Bay City and Saginaw and Flint, for the purpose of gathering up the petitions. In some places I found they had been forwarded already, and in others I got them myself. I do not, and have never known, how many names of railroad men were secured on all the petitions. Mr. Hickey, to whom I paid some money, is one of the men that I saw at Saginaw. He is a member of this same association, and Mr. Myers is the agent of the Pere Marquette at Flint. I gave him petitions to have signed and literature to be circulated. Mr. A. D. Cole, to whom I paid $5 at Flint, was yardmaster of the Grand Trunk. I gave him that for some man that he got to circulate the petitions. Mr. Ray, to whom I paid $10, was connected with the Interurban lines at Flint in some capacity or other. I paid him for work in circulating the petitions and the literature. Mr. Allen, of Battle Creek, was an official of the Railroad Men's Organization, and he was chairman of the legislative committee or something of that kind. He did not circulate petitions. He took several trips around the state to call upon different railroad men in the interest of Mr. Newberry. He went to several different towns, Jackson, I think, and Saginaw and Bay City, and came here, but I do not remember the other towns he went to. In making these trips he laid off ten days or two weeks. I do not know who made the arrangements for those trips. However, there came a time when I paid him some money. Mr. Floyd gave me the money, and told me to call on Mr. Allen and pay it to him when I was in Battle Creek, that he had laid off from his work, or was going to lay off and make a trip around to some of these towns and that money was for his expense money. I also paid the second installment to Allen. That was on my own judgment, if I remember right. He was going to make another trip and he said all he wanted was the

money he lost in wages when he laid off to make these trips. I think I paid him $50 two different times. I am not sure.

I went to Jackson on this same general mission, where I saw Mr. Lloyd, who was a railroad man and secretary of this Railroad Men's Relief Association. I think I had a letter to Mr. Lloyd from George R. Murray. I stated to Mr. Lloyd the object of my visit and asked him to circulate the petitions and the literature. He agreed to do it. I think I told him if he was put to any expense that I would reimburse him on my next trip. At Ionia I saw a Mr. Benjamin, and a Mr. Sprikken, the superintendent of the roundhouse and repair shops of the Pere Marquette. I think I had a letter of introduction to Mr. Benjamin. I said to Mr. Benjamin, as I did in all other cases, that I wished him to circulate petitions and literature. I do not remember the conversation with reference to the payment of the expenses of this work, but I think that I paid the man $5 for the work he did, if I remember right. My purpose in paying that money was to pay it for the expense of the work, for the time that he had given to the work being done. Mr. McNulty, to whom I paid $5, was a switchman that worked up around the yards around the Buick plant at Flint, and I think that he circulated petitions somewhere around the plant. I think the $5 was paid for the work of circulating the petitions. I started on the trip with Mr. George Murray about the first of August. I think I met him in Mackinaw City by arrangement made at one of the interviews I had with him at Muskegon. Mr. Murray was making his annual trip around to the different local divisions of the association, and he suggested it would be a good plan for me to go along with him, and I did so. At the meetings I would get up and explain to the members present who Mr. Newberry was and about his candidacy. Those meetings took place in nearly all of the towns and cities that I went to with Mr. Murray. On these occasions Mr. Murray also advocated the candidacy of Mr. Newberry. I made no arrangement with Mr. Murray for the payment of his expenses. Mr. Floyd told me to pay them. I did not tell Mr. Murray before we started that I intended to pay his expenses; I just paid them. I was in his companionship most of the time on this trip. The aggregate of my salary which I gave as $1,500 was calculated on the basis of $75 a week. In aggregating my expenses at the sum of $1,219 I meant the travelling expenses and hotel bills and expenses incidental to the trips that I made over the state. The $800 or $900 which I said had been expended or paid out to these different persons, was the aggregate of the amount, as near as I can remember, that had been

paid to these different persons as to whom I gave testimony, for the distribution of petitions and literature. I did no work after the primary election.

In all the things that I did from the time of my first connection with this Newberry senatorial candidacy until the end of it, and in all the things that I said, and in all the acts that I performed, I had no purpose or intent or thought to violating any law.

RE-DIRECT EXAMINATION BY MR. DAILEY:

Part of my work and part of the things that I was paid for was going about over the state talking to individuals, making addresses at organizations and creating a public sentiment in favor of Mr. Newberry; I was doing all I could toward that, and that was what I was getting paid for. All the work that I did had that object and that purpose in view. I have not been a railroad man since 1889. I was a telegraph operator when I was a boy. This railroad organization that I was around with, where I made these speeches and where I was seeing them, was a non-political organization. When Mr. George Murray and I made this trip, he was making the trip in the regular line of his duties on behalf of the organization. There were regular meetings of some sort of lodge at which officers were being installed. The Newberry Committee moneys that I had then are the ones with which I paid his expenses while he was making these regular trips. I suggested to these men that I went to see on the trips about the state in connection with this organization, and to whom I said I paid money, that they employ others in connection with them to do this work. None of them asked me for money. The proposition came each time from me. I do not remember that any man asked me for money or how much there was in it or anything of the kind. I simply told them I would pay them whatever was right. I do not remember that any single one of these men asked me for money in connection with it.

CLYDE L. ROSS, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I reside in Grand Rapids. I have been cashier of the Commercial Savings Bank of this city since its present incorporation in 1908. I have known the defendant Charles A. Floyd, about ten years. About May 1, 1918, a Newberry headquarters was opened in Grand Rapids in connection with the campaign of

hat year. Mr. Floyd arranged with me for the use of those offices or rooms. There were no definite arrangements made for the length of the tenancy until September of 1918. $60 per month was paid for them which Mr. Floyd paid in currency at my bank. There were two rooms in these offices. I believe I was up there once or twice while the committee's work was going on. I do not remember of seeing anybody that I recognized in there besides Mr. Floyd. In April, 1918, about the same time he opened the offices in the bank building, he opened an account with my bank. He had not recently been a depositor in my bank, or carried an account there. If he had a former account it had been closed prior to April, 1918. He continued to carry the account that was started in 1918 through the entire year. He made deposits from time to time to that account. The transcript of our books that I have before me shows the date and amount of each check on this account. That was made and compared as to its correctness, and is correct. I verified it personally from the books.

The Witness: (Referring to the account), The account was started April 27th.

Q. With what amount of deposits?

Mr. Littleton: That is objected to on the ground that the records or the books of the bank are only not admissible against any of the accused persons other than the defendant, Floyd, but would not be admissible against Mr. Floyd himself were he on trial alone, because they were made by other persons in his absence, and occupy the same relationship as to their probative force that hearsay evidence would occupy. There is no question as to the accuracy of the transcript.

The Court: The objection will be overruled.

Mr. Littleton: An exception. Do I understand that the witness is to be allowed to read from the transcript, or that the transcript is to be offered?

Mr. Eichhorn: I was asking him merely to state the facts.

Mr. Littleton: I assume the transcript shows the facts which he is asked to state.

The Court: Of course the record itself would be the best evidence. If the transcript may be used instead of the record, the witness having said that it is a correct transcript from the books of the bank, it may be used for purposes of the case.

Mr. Eichhorn: My purpose was to have the witness state what the deposits were for each of the different dates, if any were made, and to give the total amount.

The Court: The witness has already stated that he does not

personally know anything about it except such as appears from the record. The record itself would be the best evidence.

Mr. Littleton: That is my understanding of it.

The Court: My understanding is counsel for the defense do not object to the use of the transcript instead of the book itself.

Mr. Littleton: No, we do not. I understand, though, Your Honor has ruled the transcript, to which we do not object as being a faithful transcript of the record, is the best evidence of what is contained in the books, and not the testimony of the witness, as showing the transactions contained in the transcript.

The Court: Yes.

Mr. Eichhorn: Will you read the last question. (Last question read).

Mr. Littleton: That is objected to on the ground I just stated; the witness has no knowledge of that fact.

The Court: The witness may read the record or it may be introduced in evidence.

Mr. Eichhorn: I prefer to have the witness state.

The Court: In either event, it is the record that is speaking.

Mr. Littleton: The questions do not indicate. I suppose what counsel means is, what does the transcript show on that subject? The witness is apparently giving his testimony as to what actually occurred.

Q. Do you understand the question?

A. I do.

Mr. Eichhorn: Let it be withdrawn.

(The transcript referred to by the witness was here marked Government Exhibit No. 6).

Q. Mr. Witness, referring to the transcript which you have identified, you may tell the jury what the amount of the first deposit was as shown by the transcript?

A. $365.

Q. Now you may state to the jury the dates and amounts of the succeeding deposits by Mr. Floyd to that account?

The witness:

May 6th, 1918	$ 50.00
May 11th, 1918	200.00
May 14th, 1918	450.00
May 17th, 1918	150.00
May 20th, 1918	1,000.00
May 27th, 1918	1,000.00
June 10th, 1918	100.00
June 18th, 1918	750.00
July 3rd, 1918	1,000.00

July 9th, 1918	$1,000.00
July 11th, 1918	415.00
July 24th, 1918	1,000.00
July 31st, 1918	1,000.00
August 7, 1918	100.00
August 13th, 1918	100.00
August 16, 1918	1,000.00
August 23, 1918	600.00
September 9, 1918	1,800.00

The witness (continuing):

These deposits were made in the form of currency and aggregated $11,280.00. During all of the time that this account was running, and while Mr. Floyd was occupying the offices in the bank building, the card or inscription upon the door of the offices was SENATORIAL COMMITTEE, or something of that nature—HEADQUARTERS I believe. Mr. Newberry's name was connected with the sign. I had no conversations with Mr. Floyd as to what business he was engaged in during that time. This amount was checked upon during the period that I have testified to. From the opening of the account in April, to September 9th, $9,487.59 was checked out and to November 5, 1918, $11,256.54 was checked out.

CROSS EXAMINATION BY MR. LITTLETON:

I have known Floyd some years. He lived in Grand Rapids at a prior period and had offices in the same building for a considerable time. He had a personal account at the bank during the time he was there at the prior period. This account of which I have produced a transcript appears to be a personal account of Mr. Floyd's.

FRANK WOLF, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I reside in Detroit, of which City I have been a resident about three and a half years. I am Vice-President of the Commonwealth Federal Savings Bank. I have known the defendant, Paul H. King, approximately four years. He carried an account in our bank in 1918. He was chairman of the Newberry Senatorial Committee of Michigan. He opened the account in the Commonwealth Federal Savings Bank as Paul H. King, Chairman. I had supervision in a general way over the business that was transacted in the bank in 1918. Our then teller,

Mr. A. R. Moore, and Mr. Leonard Quart were the persons that were in charge of receiving deposits. The book which is before me marked "Individual Ledger Transfer, Commonwealth Federal Savings Bank," is a file or record containing a part of the transactions of my bank. Our chief clerk put into that container the leaves showing the accounts that we were subpoenaed to exhibit here. It contains the bank's record of the "Paul H. King, Chairman" account. During the summer of 1918 the Newberry Senatorial Committee also had a deposit account in our bank. The bank records before me also contain that account. Mr. Moore and Mr. Quart were the tellers during the time that account was running, and had charge of the matters pertaining to it.

On Mr. Eichhorn's application, the Court here directed that certain papers be marked "Government's Exhibit No. 7" for identification as a single exhibit.

The Witness (continuing): That package of papers, marked Government Exhibit No. 7, are deposit slips, representing deposits made in our bank by the Truman H. Newberry Senatorial Committee. They contain a mark placed upon them by me by which I identify them. They have my initials on the back. These tickets were obtained originally from the bank vault, and I believe they are part of the original entry or transaction relating to deposits. When a deposit is made, the customary way of getting a record of the deposit on to the bank's books is the making out of these slips in connection with the deposit. At night the slips are filed away in the vault for reference and checking, whatever may be required in after time. The paper now shown me, marked Government Exhibit No. 8 for identification is a summary or list of the deposits and withdrawals in the account under the caption "Truman H. Newberry Senatorial Committee account." It was made under the direction of the bank's clerk. I did not myself supervise the making of it or check it after it was made, or certify it. E. P. Lombard, our chief clerk, was the person.

MESSRS. LITTLETON and MURFIN here stated that no question was made of the accuracy of this summary or list, and that it was conceded it was an accurate transcript, unless something should develop later.

CROSS EXAMINATION BY MR. MURFIN:

Our bank does not have safety deposit boxes for rent or hire to the public.

ALBERT R. MOORE, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHORN:

I live in Detroit, Michigan, and am Vice-President of the Commonwealth-Federal Savings Bank. In 1918 I was in charge of the commercial department, paying and receiving teller. I am acquainted with Paul H. King and understand that he was chairman of what was known as the Newberry Senatorial Committee in 1918. During that year an account was carried in the Commonwealth-Federal Savings Bank under the name of "Paul H. King, Chairman." Referring to the records of that bank before me, that account was opened on March 6th, 1918, with a deposit of $2,000. The account was closed on May 4th, 1918. The aggregate amount of deposits that was made to that account in that period was $5,083.73. The entire amount was checked out on the date given in May. There had been checking against the account in the interval from March to May, leaving a balance of $10.00 when the final check was given. There was also an account carried in the bank by the Newberry Senatorial Committee during the summer of 1918. That account was opened on March 22nd, 1918, with a deposit of $1,000.00. The account was checked down until there was a balance of $2.75 on January 15th, 1919. The aggregate deposits on September 6th was $53,456.00. The aggregate of the deposits to the account of the Newberry Senatorial Committee was $178,857.20. The aggregate amount of withdrawals from that account was $178,854.45, leaving a balance of $2.75. The first check was $328.50 cash, on March 22, 1918, and the last withdrawal was December 19, 1918, $65.80. On September 9th the balance was $29,756.68. Commencing that day, the following checks were issued against this account:

September	9th	$ 4,836.69
September	10th	2,802.98
	11th	14,801.94
	12th	2,420.89
	13th	2,040.33
	14th	2,072.34
	16th	1,480.96
	17th	724.57
	18th	394.47
	19th	164.22
	20th	167.02
	21st	42.30

September	23rd	$ 85.99
	24th	118.11
October	1st	107.00
	2nd	7.10
	3rd	14.32
	5th	9.70
	11th	35.50
November	1st	22.90
	12th	2,110.69
	18th	18.00
	19th	48.00
December	19th	65.80

These are the dates the checks were cashed. It has no relation to the date the check was drawn. The packet of papers which have been identified as deposit slips, marked Government's Exhibit No. 7, are the slips representing the several deposits that were made to the account of the Newberry Senatorial Committee. I am not absolutely certain on all of them whether I can tell by a reference to these slips which deposits were in currency and which were made in some other form of credit, but I will tell as near as I possibly can from my markings at the present time. I did not make those slips. I may have made one or two of them, not to exceed that. They were made and handed into the bank by the depositor. I received part of the slips when they were passed in. I could not tell, from the slips, whether they were the ones that I received. I know Mr. King's handwriting. I do not believe there is a single slip in his handwriting. I do not know the handwriting of the defendants, Mr. Emery or Mr. Turner. These slips were received in the usual course of our banking business. As near as I can remember from the markings that were put on the slips two years ago, the deposits were made in the following form:

MR. LITTLETON: I submit, if your honor please, that while the slips are in evidence, there is no question about the amounts or about checking upon those amounts; the witness has not qualified himself to speak to the question upon what form the money was received at the bank, since he did not make the slips, and since his testimony upon it of course would be his best judgment; it does not rise to the dignity of evidence on the subject.

THE COURT: I think if there is anything upon the deposit slips that shows him as a banker in charge of the

matter in his bank, he may testify, anything that occurred in the regular course of his banking business.

MR. LITTLETON:: I except to the Court's ruling.

THE WITNESS (reading from Government's Exhibit No. 7 for identification): I will give these deposits as near as I can remember the markings that we put on at that time:

March 22nd, 1918, $1000.00 deposited by check.
29th, 1918, $1,000, in currency.
April 6th, 1918, $3,000.00 check.
10th, 1918, $3,000, check.
17th, 1918, $4,000, check.
24th, 1918, $6,000, check.
May 9th, 1918, $2,000, currency.
14th, 1918, $1,000, check.
24th, 1918, $1,000, currency.
June 1st, 1918, $2,000, currency.
11th, 1918, $2,000, check.
13th, 1918, $2,500, currency.
20th, 1918, $1,000, check.
24th, 1918, $2,000, currency.
26th, 1918, $2,500, check.
July 2nd, 1918, $3,000, currency.
8th, 1918, $5,000, check.
10th, 1918, $5,000, check.
11th, 1918, $2,000, currency.
12th, 1918, $10,000, made up of two checks of $5,000 each.
17th, 1918, $2,000, currency.
22nd, 1918, $3,500, currency.
25th, 1918, $2,000, currency.
August 8th, 1918, $2,000, currency.
10th, 1918, $8,000, currency.
14th, 1918, $7,400, currency.
16th, 1918, $2,500, currency.
19th, $3,500, currency.
20th, 1918, $500, check.
23rd, 1918, $5,000, check.
24th, 1918, $5,000, check.
August 26, 1918, $5,000, check.
September 4th, 1918, $10,000, check.
4th, 1918, $11,500, check.
6th, 1918, $28,956, check.
6th, 1918, $13,000, currency.

September 6th, 1918, $10,000, currency.
December, 7th, 1918, $1.20, returned check.

All of the deposit slips covering the deposits to this account are in Government's Exhibit No. 7 for identification.

THE WITNESS (reading from another paper which was subsequently offered and received in evidence, without objection, and marked Exhibit No. 8): The following are the dates and amounts of payments that were made from this fund from the time the account was opened:

March	22nd, 1918	$	328.50
	25,		80.00
	27,		60.00
	30,		473.00
April	1,		70.00
	2,		21.25
	3,		61.15
	4,		59.32
	5,		48.47
	6,		1,096.76
	8,		377.64
	9,		380.83
	10,		330.62
	11,		422.72
	12,		1,123.51
	13,		1,472.65
	15,		466.50
	16,		86.09
	17,		1,103.70
	18,		290.00
	19,		57.75
	13,		57.75
	20,		1,686.50
	22,		278.00
	23,		410.00
	24,		379.75
	25,		2.25
	26,		358.63
	27,		1,668.75
	29,		459.00
	30,		325.00
May	1,		250.75
	2,		202.00
	3,		202.00

May	4,	.....	1,255.25
	6,	.....	579.25
	7,	.....	602.90
	8,	.....	630.72
	9,	.....	708.15
	10,	.....	74.08
	11,	.....	115.95
	13,	.....	600.67
	14,	.....	70.95
	15,	.....	106.75
	16,	.....	61.01
	17,	.....	298.10
	20,	.....	3.00
	21,	.....	118.85
	22,	.....	46.59
	23,	.....	23.76
	24,	.....	122.10
	25,	.....	69.45
	27,	.....	284.01
	28,	.....	16.75
	29,	.....	54.29
June	1,	.....	133.72
	3,	.....	366.72
	4,	.....	40.75
	5,	.....	144.59
	6,	.....	45.15
	7,	.....	70.78
	10,	.....	90.00
	12,	.....	999.94
	13,	.....	179.65
	14,	.....	1,685.22
	15,	.....	1,179.08
	17,	.....	557.33
	18,	.....	855.85
	19,	.....	232.30
	20,	.....	16.80
	22,	.....	957.33
	24,	.....	291.40
	26,	.....	76.55
	27,	.....	2,304.00
	28,	.....	1,283.00
	29,	.....	110.65
July	1,	.....	27.35
	3,	.....	1,922.60

July	6,	100.00
	8,	338.70
	9,	1,821.30
	10,	5,251.55
	11,	7,221.42
	12,	1,228.49
	13,	3,221.33
	15,	2,914.11
	16,	1,853.52
	17,	2,085.77
	18,	328.65
	19,	707.51
	20,	555.55
	22,	209.18
	23,	101.95
	24,	145.34
	25,	1,461.85
	26,	414.34
	27,	58.87
	29,	518.71
	30,	99.35
	31,	15.65
August	1,	446.31
	2,	234.28
	3,	7.00
	5,	7.00
	6,	11.50
	7,	6.90
	8,	481.96
	9,	16.10
	10,	766.50
	12,	1,200.00
	13,	156.39
	14,	13,394.08
	15,	1,670.74
	16,	1,753.73
	17,	1,905.88
	19,	2,345.41
	20,	430.76
	21,	208.74
	22,	179.78
	23,	104.24
	24,	164.57
	26,	3,926.50

August	28,	3,031.35
	29,	4,711.51
	30,	1,945.34
	31,	363.14
September	3,	481.16
	4,	117.07
	5,	53.33
	6,	608.82
	7,	38,232.87
	9,	4,836.69
	10,	2,802.98
	11,	14,801.94
	12,	2,420.89
	13,	2,040.33
	14,	3,072.34
	16,	1,480.96
	17,	724.57
	18,	394.47
	18,	164.22
	20,	167.02
	21	42.30
	23,	85.99
	24,	118.11
October	1,	107.00
	2,	7.10
	3,	14.32
	5,	9.70
	11,	35.50
November	1,	22.90
	12,	3,110.69
	16,	18.00
	19,	48.00
December	19,	65.80
		$178,854.45
Bal.		2.75
		$178,857.20

CROSS-EXAMINATION BY MR. MURFIN:

The dates I read from Government's Exhibit No. 8, after September 6th, 1918, indicate the date my bank cashed the check, and not the date that the drawer of the check drew the check.

MR. LITTLETON here stated that there would be objection to the reception of this evidence insofar as competency is concerned, or so far as the details concerned, and moved, on behalf of all the defendan that the evidence of the witness be stricken from record on the ground that it does not appear directly indirectly, or inferentially, that any of the money whi appears in either of these accounts, "Paul H. Kin Chairman" or the "Truman H. Newberry Senatori Committee" was given, contributed, or caused to given or contributed by Truman H. Newberry, or th any of it that was checked out or expended or caus to be expended or checked out by Truman H. Newberry

THE COURT denied the motion, to which ruling th defendants severally duly excepted.

MR. EICHHORN then made a formal offer of th papers comprising Government's Exhibit No. 7, whic were thereupon received in evidence.

WILLIAM J. GRAY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I reside in Detroit and am Vice-President of The First & Old Detroit National Bank, which is located in the Ford Building, at the corner of Griswold and Congress Streets, in the City of Detroit. It was so located during the summer of 1918, at which time I was acting in the same capacity. In connection with our bank, we had a safety deposit vault, in which individual or private boxes or compartments were sold or rented. I did not know Mr. B. F. Emery in the summer of 1918, but I knew Mr. Turner. These vaults are situated in the basement. The department is in charge of a manager and he has two officers that assist him there. The boxes are inside of a large steel vault. Those boxes have two sets of keys to them, one, the master key, that is in charge of the bank, and the other, the keys that are given to the renter of the box. It requires both keys in order to get into the box, so that nobody has access to the box in the vault unless somebody from the bank is there at the time to use the master key at the same time that the other key is being used. The manager's office is outside at a desk, and between that desk and the vault and the place around the vault is an iron gate that can only be opened from the inside, and is usually opened by one of the officers there. A minute is made by the officer whenever

the renter of a box visits the box for any purpose. He makes his record upon a slip indicating the person whom he is giving access to the box and also the time at which the access is given. Those are kept as a part of the records of the bank.

(Certain papers were here marked "Government's Exhibit No. 9 for identification.")

Those papers are the slips to which I have referred which indicate the person who had access to the safety deposit box 813 during the time indicated upon these slips in May, 1918. They are made out by our officer.

(Another packet consisting of several papers was here marked "Government's Exhibit No. 10 for identification.")

Those are similar slips that cover the month of June.

(Another packet of papers was here marked "Government's Exhibit No. 11 for identification.")

These are similar slips that cover the month of July, the same box. These several exhibits are all for box 813.

(Certain other papers were here marked "Government's Exhibit No. 12 for identification.")

That is the original signature card that is signed by the party to whom the box is rented. This covers box No. 813. I have no acquaintance with those signatures and I know nothing about the transaction which that card carries a memorandum of more than what the card tells me.

(Certain other papers were here marked "Government's Exhibits Nos. 13 and 14 for identification.")

Exhibit No. 13 is an index kept for the convenience of the bank showing in whose name this particular box 813 was taken out, and Exhibit No. 14 covers a visit to box 813 in August and another in September, for which no slips have been produced. George A. Nern was the department manager of the records and these deposit boxes and of the deposit vault itself, and the officers who were assistants were Frank Gorsland and Charles Myers. They were in charge during the summer of 1918 covered by these records.

CROSS-EXAMINATION BY MR. MURFIN:

I had no way of knowing what Mr. Emery kept in this box. I have had an office in the Ford Building for a number of years. Before I became a bank Vice-President, I was a lawyer. I know

there was a vault in my own office as distinguished from the safety deposits downstairs, and I think that was the same as in most of the offices.

Q. There was a vault attached to each office in the Ford Building?

MR. EICHHORN: We object as not cross examination.

THE COURT: I sustain the objection.

MR. MURFIN: Will your Honor allow me to explain?

THE COURT: It is not germane to the direct examination at all.

MR. MURFIN: If your Honor will allow me, I think I can point out why; however, I will take an exception.

JOHN N. STALKER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit and am the Vice-President of the Union Trust Company. I was connected with that concern during the summer of 1918, in the same capacity. I could hardly say that I was acquainted with the organization known as the Truman H. Newberry Senatorial Committee, but I knew of it. My first recollection of having had it called to my attention was when an initial deposit was made with our company by Mr. Blair, who was Treasurer. Mr. Blair is the President of the Union Trust Company, among other things. There were a number of deposits made from time to time, beginning with August of 1918, by Mr. Blair in his capacity as Treasurer of the Truman H. Newberry Senatorial Committee. I have the records of that account with me, which I now produce. Turning to the account to which I have referred, the first deposit was made August 10, 1918. On that date there were seven individual credits, which aggregated $2,600.00. This book from which I am testifying is one of our trust ledgers. The last deposit made to the account that I have before me was made September 9, 1918, and the aggregate amount of the deposits to that account were $78,956.00. The record before me does not show how those deposits were made, whether in currency or by check or draft, but I think I can properly say that all of them were made by check. I did not personally receive the deposits, and I do not believe that I was present when they were made. The entire

amount of the deposits was transferred to the Commonwealth Savings Bank at various times.

Ordinarily it would be in amounts of $5,000.00 or $10,000.00. The Trust Company issued its checks in favor of the Commonwealth Savings Bank which were then delivered to Mr. Emery, or someone from his office, to be taken over to the Commonwealth Savings Bank and deposited in that bank. On August 23rd, 1918, two checks for $5,000.00 each were issued from my bank in favor of the Commonwealth Savings Bank. On August 26th there were two other checks of $5,000.00 each on this fund from our bank in favor of the Commonwealth Savings Bank numbered C 56353 and C 56354, respectively. On August 28th there was a check on our bank against this fund in favor of the Commonwealth Savings Bank numbered C 56370, for $3,000. All of this account was finally checked out of our bank on September 7th, 1918, by a check for $11,500.00 in favor of the Commonwealth Savings Bank. Checks on the Truman H. Newberry Senatorial Committee account in the Commonwealth Savings Bank were frequently signed by myself. Mr. Blair was very busy at the time. He was out of the city a good deal. He happened to be President of the Trust Company section of the American Bankers' Association, also President of the Michigan Bankers' Association. He was out of the office a good deal. He asked me if, in his absence, I would sign such checks if presented, and I did sign many of the checks that were drawn on the fund that was in the Commonwealth Savings Bank, in my own name. I had no personal knowledge what they were given for, or the transaction. They were all voucher checks, which indicated on the inside of the check the purpose for which it was drawn, and the arrangement was they were all to be O.K.'d by, I think, Mr. Emery in the Committee's office, and checks coming over with his O. K., unless there was something about them which looked improper, I was to sign, and did sign. I did not refuse to sign any of the checks that were sent over. They were all prepared when they were brought over for me to sign. Sometime some would come over every day for a while. On occasions they were presented in considerable numbers. I do not think I ever met Mr. Turner. It is possible Mr. Emery might have brought checks over for my signature, although I do not happen to recall that he ever did. The great bulk of the checks were for small amounts, two and three dollars, five dollars; something like that. There were, however, some larger ones. I have not with me those checks from my bank to the Common-

wealth Savings Bank. Those checks were, however, returned to us when they were cashed.

CROSS-EXAMINATION BY MR. HAL H. SMITH:

The checks evidencing the transfer to the Commonwealth Savings Bank were ordinarily issued at the request of B. F. Emery and were as follows:

August 20, $500.00; August 22, $5,000.00; August 23, $10,000; August 26, $10,000; August 28, $3,000; September 6, $28,956; September 7th, $11,500.

FRANK R. GORSLINE, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN.

I reside at 1172 Hazelwood, Detroit. During the summer of 1918 I was employed at the First and Old Detroit National Bank as a special officer in the safe deposit vaults, my duty being unlocking and locking up the safety deposit boxes. I was in charge of what is known as the Master key. I am always at the front door. I was slightly acquainted with Mr. B. F. Emery. I do not know what his business connection was at the time. I seen him the day he rented the box, showed it to him, and that was all. It was number 813. (Referring to Government's Exhibit No. 12 for identification). He rented the box on May 9th. The card marked Government's Exhibit No. 12 was made out and taken that day. He signed that card. I could not say how many times he called, after May 9th. I was not present every time he called. Maybe he called there two or three times when I was on duty. I did not make out any of those four papers (indicating Government's Exhibit No. 9 for identification). There are two of them my figures there (indicating the same exhibit); the other two are my partner's that was with me. I could not say that I saw Mr. Emery there on numerous occasions during the months of May, June, July and August, not him. I know Mr. Turner. I saw him there quite often. The first time he came there to get into the box, I refused him, because his name was not on the contract card, so he went out and got the defendant, Mr. Fred Smith, who was in the Newberry estate office, to come down and vouch for him. I could not say whether or not Mr. Turner signed the signature card that I have identified as Exhibit 12 or about when that was with reference to May 9th. The slip there shows it. I saw him there frequently after that first time.

(Referring to Government's Exhibit No. 10 for identification). Mr. Turner visited the deposit vault on June 4th; that was his first trip. After that I saw him very often. I never saw anyone with him only that day that Mr. Smith came down there with him. I think Mr. Emery was there with him once or twice. When he went there, I unlocked or assisted him in unlocking the box. When the box was unlocked I would ask him if he would want to go to the private room, which was about ten by twelve, enclosed, with a table in it. He said yes, and we would take the box and go into the room, and I turned around, closed the door, and come out. The door to this room that he was in was not locked. Ordinarily he remained in the room maybe twenty minutes, half an hour, something like that, sometimes a little longer. When he and Mr. Emery came together, they both went into the room and remained for about the same length of time I have stated. This safety deposit box was about nine inches in height, about eight or nine inches across it and twenty-two inches long. Sometimes I carried and delivered the box into the room, and sometimes my assistant done it. Sometimes after Mr. Turner or Mr. Emery, or both of them, had had this box opened and had had it taken into the room and were in the room and then went away, I would go into the room and sometimes my assistant would go into the room. Sometimes when I went in, I sometimes found papers in there on the floor—slips, papers and bands off from packages of bills, with marks upon them. I never took much notice what labels or marks were upon these bands. Sometimes I did; they would lay there and I could see them; it would be $500. I never saw any marks upon these bands other than the figures $500. I never paid any attention. I picked them up and throwed them in the waste basket.

CROSS-EXAMINATION BY MR. LITTLETON:

I have been in the employ of the company going on thirteen years. There are 2,518 safety deposit boxes in the safety deposit vault. That means a great deal more than 2,518 people; some of the boxes have from four to five people enter them. Well, I could not give you the different sized boxes; there is a $4.00 box, a $5.00, $6.00, $8.00 and $10.00. The largest box costs $150.00 a year. I could not tell you exactly the size; I never measured the boxes. The large boxes of the $150.00 size have three compartments in them and three doors. When any one of the persons who have a box comes there, they hand me the key and I go in and unlock it. When anyone of these customers wants to examine his box, I take it into this room and leave him in

there with his box, and I close the door, the same as I did with Mr. Turner. That happens with anyone of the 2,518 who come there to examine the boxes. That happens maybe fifteen or twenty times a day. It is a common operation there of any person who has a safety deposit box. This operation in Mr. Turner's case was no different from any other case; the same in all cases. My duty is to be at the door, to receive the customers, take him to his box and unlock it for him, deliver it to him if he wishes to go into the room to attend his private affairs. The price of the box that Mr. Turner had was $40.00.

CHARLES MYERS, a witness sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit, Michigan. During the summer of 1918 I was one of the men in charge of the First & Old Detroit National Bank safety deposit vaults. Frank Gorsland was the other man. I know the defendants B. F. Emery and H. O. Turner. I know that during the latter part of the month of May, June, July and August, Mr. Turner came to that safety deposit vault while I was there. Nothing occurred any more than unlocking his safety deposit box, which was number 813, for him and giving it to him. Sometimes I would remove the box, take it to the room and leave it in the room with him. We always closed the door when we go out. I could not say how long he remained there at any time, because I do not remember; nor can I state about how frequently he or Mr. Emery, or both of them, visited the safety deposit vault during that summer while they had this box rented. I remember their being there several different times. It is a part of our duty after a box has been taken into the room, to go in and examine the room. I could not say that I ever found anything right directly after any of these visits of Mr. Turner. I did not go into the room directly after his leaving at any time; probably half an hour afterwards. There may have been some other persons in the room following him. I could not say whether they had or had not. When he had had the box from the safety deposit vault and had it in this room, sometimes they would put it back themselves and sometimes we would carry it back for them. I could not say that I remember any certain time that I took it back. I may have taken it back. Generally both of us was present when it is unlocked and locked both. It is not necessary that the person holding the master key shall be present when the

ox is locked. That can be done without the master key being sed. We kept a slip or record with reference to these visits, ke the slips that are on the table there before me. The time nd the date is indicated there and the name of the person visiting. This slip is made out by either myself or Mr. Gorsland; r Mr. Nern, who was a third man with us in charge.

ROSS EXAMINATION BY MR. LITTLETON:

A number of the large automobile manufacturers have safety leposit vaults there, who come there with their clerks and make p provision for their payroll, which they make up in those ooms where they take their boxes. That is frequently done; nd it has been done for several years to my knowledge.

PEARL GILBERT, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Washington, but my home is in Flint, Michigan. I have been in Washington only since the 1st of January. I am there as secretary to Congressman Currie. I know Mr. Frederick Martindale who lives in Detroit. I was at his home in Detroit from the last of June until the first or second week in August, 1918, doing some stenographic work consisting of the preparation of letters that were being written by Mr. Martindale in behalf of Mr. Newberry and his candidacy. I made the preliminary arrangements to do this work with the defendant, Paul H. King. If a favorable reply came to a letter, I usually wrote two two letters, one for Mr. Martindale and one for Mr. King. Mr. King signed in his office the letters that I prepared for him. The trips I made from the Martindale home to the office of Mr. King were saved up until along towards the last. I had quite a number of them. I do not remember that I took any before I went down to their office to work. Mr. King agreed with me upon the salary that I was to receive in doing this work. The compensation that I was to receive, and did receive, was $50 a week, which was paid to me by the defendant B. Frank Emery in the office of the Newberry committee in the Ford Building, usually at my desk. Prior to the time I went up there in August, and when I stayed at the home of Mr. Martindale, sometimes I would go down after it. Sometimes Mr. Emery would bring it up to me. He lived right near Mr. Martindale. Sometimes I was paid weekly; sometimes I let it go; I did not bother to go down and get it, and they did not bother to bring it to me. Each time I

was paid in cash. Along about the 1st of August I left the home of Mr. Martindale and went up into the committee rooms in the Ford Building. I remained there until the close of the State Central Committee. After working for the Truman H. Newberry Senatorial Committee, I remained with the Republican Committee. I am personally acquainted with Terry Corliss and Mr. James McGregor, and saw the latter at the Newberry Office. I also know Mr. James K. Davis, and I think I saw him in the headquarters. I also saw Mr. Benjamin F. Reed there. I think on one occasion when I was in the Newberry headquarters, I was called upon by Mr. King, or somebody else, to secure Mr. Truman H. Newberry on the long distance telephone. I think it was subsequent to August 27th, I am not sure, but I think he talked with Mr. Newberry after I got the connection. On the day before the primary, I think I took a telegram from Mr. King to Mr. Newberry. He told Mr. Newberry not to worry, that everything was all right. I know Mr. Allen A. Templeton and saw him in the headquarters every other day, probably. I know Milton Oakman and saw him in the headquarters. I saw him go into the room of Mr. King but I do not know how often. He came in there when Mr. King was there and also when he was not there. He used to come in and talk to us.

MARGARET SIMMONS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Grand Rapids. About the 1st of August, 1918, I took employment with the Truman H. Newberry Senatorial headquarters in Grand Rapids and was told that I was to receive $15 a week. I think one week I received $20. Mr. Charles Floyd paid me in cash each week. There were two rooms in that office, one of which was occupied by Mr. Floyd and James B. Haskins. I took my dictation from Mr. Floyd. I sent out, I imagine, 500 to 1,000 form letters which were sent out from headquarters. I saw Mr. George Welsh around headquarters sometimes every day. He employed me to work in headquarters. He was in consultation with Mr. Floyd. I remained in that employment about four weeks. I did not become acquainted with the field men who were working out of the office.

I saw the defendants Wilson, Kennedy and Rice at headquarters.

JOHN E. KERN, being sworn as a witness on behalf of the Government, testified as follows:

IRECT EXAMINATION BY MR. DAILEY:

I reside at Midland, Michigan, which is in Midland County, bout 135 or 140 miles northwest from Grand Rapids and about 17 miles from Detroit. I am in the real estate business and ave lived at Midland about 16 years. The defendant Terry orliss called on me at Midland about the middle of August, 918, and wanted me to organize Midland county in the interest f Mr. Newberry, and I agreed to do so. He said he had charge f several other counties. Probably a week or so afterwards, nd a week or ten days before the primary, Corliss asked me to o to Detroit to meet Paul King and I went to Detroit and had a onversation with Mr. King at his office, where I was taken by Mr. Corliss. There was another person present when Mr. King nd I had this conversation—a man, I think. We discussed the ampaign there in Midland County and the conditions there po-itically, etc. I think we discussed our campaign expenditures to ome extent there too at the time. That is all I can recall about t. I do not know whether anything was said about other coun-ies having been organized and Mr. King's desire to have that county organized. Finances were discussed. I am not sure whether this other man was in there at the time the conversation started or whether he came in later. I think there was some-body else present at the time though. While Mr. King and I were talking there, and in the presence of King, a sealed envelope was put on the table right beside of me there to take all right. I do not recall whether my name was on it or not. I put it in my pocket. I did not open it there. I left Detroit to return to Mid-land on the evening train. I opened the envelope on the train during the course of the trip and found $400.00 in it. This oc-curred, I would judge, between the 15th or 20th, or someplace along there, in August, along there, may be the 20th or 25th. I was probably called secretary of the Newberry organization of Midland County. I cannot recall how communications that came to me were addressed. There were very few sent to me. Before then I had made some trips with Mr. Corliss over the county—I think three different days—in a hired automobile. After the trip to Detroit I again hired an automobile. When I went on these trips with Mr. Corliss, I introduced him to the men over the county. That was my purpose in going out. I cannot tell you now just exactly how much I paid for automobile hire. Before I received this money from Detroit, I paid out probably about $35 or $40 for automobile hire, something like that. After that I paid out fifteen or twenty dollars, I presume, for the same pur-

pose; I cannot give you exactly the amount. I reimbursed myself for these expenditures out of this $400, and I paid for these automobiles that I hired after I received the $400, out of the same money. I employed some kids to distribute literature, fold circulars, and so forth, and bill the town. I do not remember now what I paid them. I did not hire any men to post bills. Besides these, the only other expense I had was postage. I cannot remember how much that was. I had not met B. Frank Emery when I was in the office at Detroit, to my knowledge. I think I first got hold of his name when some party on the train who belonged to the Newberry organization, probably a couple of days before the primary, told me he was manager of the office. Of this $400 I expended $96 and a few cents, leaving approximately $304, for which I sent a draft back to Mr. B. Frank Emery.

CROSS-EXAMINATION BY MR. LITTLETON:

During the sixteen years I resided in Midland, which is the county seat in Midland County, I was in the real estate business there, with the exception of about two years, when I lived in Saginaw; but I had an office in Midland, which has a population of about 7,000. I have a pretty good acquaintance there. My business brings me in contact with a great many people in that town and of the county, too. I was a Newberry man prior to the time Mr. Corliss called on me and had talked for him. I cannot say I took sides there, but I had taken part, at all events, before Mr. Corliss was there, to the extent of expressing my preference. I had never known Mr. Corliss before he called on me. He told me he was there for the purpose of organizing the town and county for Newberry. My recollection is that we made a trip the next day. The party consisted of Judge Ray Hart, who is the Circuit Judge of that district, Mr. Corliss and myself, in addition to Colin McDonald, the driver. We went through the country to Averill, through Sanford, North Bradley, and Coleman. Judge Hart left us there and went to a picnic, where he was speaker of the day. I introduced Mr. Corliss to prominent Republicans at every place along the line. Judge Hart was simply along with us to go to the picnic. At each of the towns that we went to, Mr. Corliss distributed literature to these men to whom I introduced him, talked to them generally in regard to Mr. Newberry's candidacy, and eulogized the candidate. I have always taken a little part in campaigns. That day we drove through a portion of Midland Township, across Jerome Township, and we were in Warren Township and some in Geneva Township, wind-

ng up at night back in Midland. Two days after this we made nother trip, the party consisting of the same driver, Mr. Corss and myself. That was in another part of the county, through arious townships. I introduced Mr. Corliss to prominent Reublicans or men that I knew in those townships, to whom Ir. Corliss talked about Mr. Newberry's candidacy; and literaure was distributed. At night we wound up back at Midland. The next day I made a trip through the county or part of the ounty with the same parties—Mr. Corliss, the driver and myelf. We went to the various townships and I introduced Mr. Corliss to the Republicans whom I knew in those townships. He istributed literature there and talked to them about Mr. Newberry's candidacy, and at the end of that day we again wound up in Midland. I made no other trip to my recollection while Mr. Corliss was there. I do not remember whether or not, in perfecting or establishing the organization of the Newberry organization in Midland County between Mr. Corliss and myself we had a chairman or not I agreed to act for Mr. Corliss and for the Newberry people in that county and do what I could toward furthering his candidacy. After these three trips, Mr. Corliss went away.

During my conversation with Mr. King in Detroit, Mr. King asked me how the Newberry campaign was getting on in Midland County, and I told him. I was in Mr. King's office that day, according to my best recollection, just a few minutes. I think we discussed the question of defraying the expense of the campaign in Midland County. I do not know who the man was who was in the room at the time. I do not think he was a stenographer or a clerk. I had previously distributed literature and interviewed individuals, etc., and I had gone out into the county from Midland, and after Mr. Corliss left, I had made probably two or three automobile trips, I cannot just tell now, I do not remember exactly how many. Besides the driver, I had no one with me. I talked Newberry in the various townships I visited and distributed the literature. By literature I mean circulars, folders, and cards, such as were furnished to me by the Newberry campaign committee. I gave every party I met some literature, and in the towns that I went to, I saw persons that I knew and asked them to distribute the literature. After Mr. Corliss left, I believe I visited five townships. Nothing was done toward furthering the candidacy in Midland itself, except the distribution of literature, etc. On the first day when Judge Hart went out with us to go to the picnic, where he was the speaker, we rejoined him there. I went about the picnic grounds and

introduced Mr. Corliss to people that I know. Judge Hart returned to Midland with us. I did no work to speak of after the primary election. After that I did nothing more than give my personal preference. I did not go around the county in an automobile distributing literature or talking to people.

GEORGE F. MACKENZIE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I reside in Grand Rapids, where I am engaged in banking, with the Old National Bank. I was engaged in that business in 1918. I have known Charles A. Floyd five or six years, possibly more. I have an idea that he was a resident of Grand Rapids in 1918. He had an account there prior to that year. In 1918 he had some transactions with my bank, of which I am Vice President and Cashier. The records are kept under my supervision. In keeping the individual accounts, we had a posting ledger machine by which they were kept on loose leaves. The papers now shown me which have been marked Government Exhibit No. 15, and kept together, are our ledger sheets showing Mr. Floyd's account from October 26th, 1917, to August 23rd, 1918. The other papers now shown me and marked Government Exhibit No. 16 are Mr. Floyd's deposit slips showing the deposits he made during that period. The separate deposits were as follows:

April 2nd, $100.00 in currency
" 4th, 328.00 in the form of a check
" 6th, 250.00, also by check
" 9th, 500.00
" 17th, 100.00
" 19th, 250.00

There is no mark to indicate the form of these three last deposits. The following seven deposits—

April 25th, $ 50.00
" 27th, 500.00
May 27th, 500.00
July 8th, 300.00
July 11th, 500.00
August 16th, 1000.00
" 23rd, 600.00

were in currency.

CROSS-EXAMINATION BY MR. LITTLETON:

Mr. Floyd has kept an account at our bank since January 6, 1916. Referring to the address given on the top of the sheet,

Mr. Floyd had resided here for quite a number of years, and had then gone to Chicago. His account was still carried, but his residence was given as Chicago, Illinois. The aggregate of his deposits between April 1918 and August 23rd, 1918, was $4,478.90. The withdrawals covering that same period, as appears from our books, was $4,622.74, which is $161.45 in excess of the amount put in during the same period. Mr. Floyd's deposits during the previous five months, namely, from October 1917 to April 1918, aggregated $5,037.50. It is a common thing for people to deposit currency of $3,000, or $5,000.

BY MR. EICHHORN:

The signatures to the paper now shown me are Charles A. Floyd's.

(The paper referred to was here marked "Government Exhibit No. 17" for identification.)

Certain other papers were here marked respectively as Government Exhibits Nos. 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33 for identification.

Mr. Floyd's signature, either written or a stamped fac simile, is attached to each of the documents marked "Exhibits Nos. 18 to 33," inclusive, with the exception of Exhibits Nos. 28 and 31. There is no signature attached to Exhibit No. 27, and to Exhibit No. 25 there is also the signature, presumably, of Paul H. King. The one here that I would say is the stamp signature is Exhibit No. 29. The others are all written by him and are the names of Charles A. Floyd, except Exhibits 27, 28 and 31.

JAMES E. DILLON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in East Tawas, Iosco County, which is on the east coast of the Lower Peninsula. I am a druggist and was living at East Tawas and engaged in that business in the summer of 1918. I know Mr. B. F. Reed. The only conversation I had with him relative to the campaign, Senatorial Campaign, of 1918, was when he first called at our place of business one evening about a month before the primary. It did not exceed an hour all together. He wanted to know the situation and feeling as to Mr. Newberry's candidacy. I told him as far as I knew personally—and I had heard others express favorable opinions, and he wished to meet a few of the people while he was there, and he did. I directed him to some and some he

talked with over the 'phone that he did not meet personally. He wanted to know what the feeling would be toward organizing a little committee there. He told me he would take the matter under consideration and did, and the committee was organized later. He said they were trying to effect similar committees in different parts of the state; he did not say anything more except he would notify the Detroit office or Mr. King that he had interviewed me and some of the other local people there and was pleased with the indication. He mentioned Mr. King as being at the head of it all. Later I saw Mr. King. In the meantime there was some correspondence between Mr. King and myself. I saw Mr. King at East Tawas before the primary. He was going through the town and stopped over a short time and met a few of the local committee there. I think Rola E. Prescott was with him. That day we had a luncheon at which probably nine or ten persons were present—not to exceed a dozen, including the secretary of the local committee of which I was chairman, Mr. Waldo Curry, the treasurer, and some of our county candidates. I do not know how the expenses of the luncheon were paid. I did not pay any part of them. Before leaving, my recollection is that Mr. King just said, "Now, Mr. Dillon, if you are put to any necessary or proper expenses, why I will see that they are adjusted and taken care of. At some date following the November election, I sent a statement of account to Mr. King at the Detroit office for expenses incurred amounting approximately to about $60.00 or a little over that amount. The expense comprised some newspaper bills for printing, postage and stamping, a few telephone and telegraph messages, a stenographer, that for addressing envelopes, and so on, a small amount for distributing some literature. Those expenses were incurred both before and after the primary. I have no way of separating what occurred before and what occurred after the primaries. The total expense which had been paid by the local committee was included in the statement sent to Mr. King. The bill was paid me by check. I cannot state the date, nor do I recall the signature to the check. I kept up some communication with the Newberry Central Committee at Detroit after primary day. I was not an active member of the General Campaign Committee of my county, but I did keep up some work, and some of this expense was incurred in connection with the Newberry candidacy after the primary.

CROSS-EXAMINATION BY MR. LITTLETON:

I have lived in Iosco County about forty years. I was a New-

berry man more than a month before the primary and had so expressed myself. I was and had been an active member of the Republican club in that county and town for some time. Upon the occasion when Mr. Reed called on me, I introduced him to Mr. Joseph G. Demmick, the County Treasurer, Mr. David Davison, the Judge of Probate, Mr. Frank E. Dease, the County Clerk, Charles A. Pinkerton, who is in the employment of the railroad company, Mr. H. N. Butler, a merchant and Mr. Frank F. Taylor, also a merchant and Chairman of the County Republican Committee. I knew that these gentlemen were Newberry men and had known it prior to that time. As soon as we could conveniently arrange after Mr. Reed's visit we perfected the organization and I sent in the names to Mr. King. I was Chairman of the Committee; Mr. H. M. Butler, Secretary; Waldo Currie, Treasurer; and there were others that were Vice-Presidents of the Association, names that I have mentioned here. That organization was confined to the county, but I sent in the names of others in the rural part of the county as part of the organization for Newberry. I corresponded with Mr. King before he came up there and afterwards, with reference to the organization that I had perfected, the progress I was making, and the likelihood of success in that county. Mr. King came there a few weeks after Mr. Reed had been there. The gentlemen that attended the luncheon were, in part, those whose names I have given. They were men who had been and who were then identified with the Newberry organization. It was not a very elaborate luncheon—just an ordinary one—the regular noonday luncheon in the dining room of the Holland Hotel in East Tawas. It was not specially prepared and there was nothing unusual to eat. While Mr. King was there, I talked with him about the condition of the Newberry organization in the county and told him the progress we were making, and what I as one member of the Committee thought the likelihood of success was. We all expressed our opinion more or less at the luncheon. He asked for an expression as to how they felt as to the situation, and some gentlemen would be called on, and asked to express his views, and he would do so. That was all that took place at the luncheon. I do not think Mr. King remained in the town to exceed an hour and a half altogether, if it was that. He was making a trip through that part of the state. After the luncheon, I went on with the work of the Newberry organization in the county and communicated to him the progress of events in the county, as I saw them. As Chairman of the Newberry organization in the county, I gave him my opinion with reference to the likeli-

hood of success, from time to time, and I got his replies. The carrying on of the Newberry organization of that county consist in the distribution of literature in part, the holding of meetings, stenographer, printing, postage, telegraph, telephone and the public advocacy of his election. This $60 which I expended comprised all of our expense in reference to the Newberry organization, and when I transmitted the bill for that amount of money, I received a draft or check in payment for it. After the primary I worked for the entire Republican ticket. There was a state ticket, a county ticket, and a district ticket as well. Before the primary, when I did anything in politics at all, I devoted myself exclusively to the Newberry campaign, and I gave no attention to anybody else's candidacy. After the primary election, and when the nominees had been chosen for all of these offices, from the local office to the state office, I gave such time as I did give at all to the support of all of the nominees of the Republican party, and similarly, after the primary, the Newberry organization devoted its energies to the entire ticket, as well as Mr. Newberry's. I know that the State Central Committee took over the campaign work after the nominations on August 27th.

BY MR. EICHHORN:

I corresponded with the Newberry Committee after the primary election.

B. J. GIBSON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit and have been record clerk at the Statler Hotel three years. My duties include taking care of the registers upon which guests of the hotel write their names, and also the cashier's records and slips. I have with me some part of the records of the Statler Hotel consisting of some leaves from the guest register for 1918. That was a loose leaf register from which leaves could be extracted. I have the register of January 27th, 1918, with me.

(The reporter marked the paper referred to as "Government Exhibit No. 36").

According to Exhibit 36, the name of Frederick Cody appears upon the register of the Statler Hotel, January 27th, 1918. I also have a record here from which I can tell how long he remained as a guest of the hotel at that time. That is taken from our departure list.

(The paper referred to here marked "Government Exhibit No. 37").

Mr. Cody left the Statler Hotel on that occasion on the 28th. Mr. Cody entered the hotel again and registered as a guest on January 30th and left on the 2nd of February. He again registered at the Statler Hotel on Sunday, February 10th, and departed on Wednesday, the 13th. He registered as a guest of the hotel on March 23rd and on April 10th, 1918. His departure on that visit was on April 25th. However, two of the dates of his departure are missing. This April 10th registration is one of them. Mr. Cody registered at the Statler on Tuesday, April 23rd and left on the 25th. He again registered on Tuesday, May 7th, and left on the 8th. He registered at the Statler May 21st and left on that visit on the 23rd. He registered at the Statler Hotel on June 24th and departed June 26th. He registered Friday, August 23rd, and charged out September 6th. He registered Tuesday, September 24th, and departed on the 26th. He registered again on Friday, November 1, 1918, and departed November 3rd, 1918.

CROSS-EXAMINATION BY MR. LITTLETON:

I did not bring any of the records prior to January 30, 1918, or after November 3, 1918. I did not examine the records prior to January 30, 1918. I did not see Mr. Cody at the hotel frequently prior to January, 1918, to my knowledge. I mean I did not know him at that time. I was not asked to examine to see what our records would show with reference to his registration there prior to January 30, 1918, and so I made no such examination. I have not got those records with me. I would have to go to Detroit for them.

THOMAS J. WHITING, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in North Carolina for the past year. Before that time my home was at 220 Warren Avenue, Grand Rapids. I am a salesman for the Southern Confection Company. I wasn't employed by anybody in 1918. I met the defendants Mr. George Welsh and Frank McGraw in the office of the National Labor & Press Association in Grand Rapids, sometime in the summer of 1918. I was employed by Mr. Welsh to circulate these Helme petitions. I was offered a salary of $5.00 a day to go out and get the petitions. I got the $5.00 a day, and I also got expenses.

I don't remember whether it was Mr. McGraw or Mr. Welsh who placed the Helme petitions in my possession; I got part of them, I believe, at the National Labor & Press office. I was never up to the Newberry Senatorial headquarters. Mr. Welsh and Mr. McGraw, or one of them, turned over probably seven or eight of the petitions to me—it might have been more. They were blank, unsigned, printed petitions. I went out and circulated them in order to get the names. I first circulated them in Grand Rapids, where I spent two days on the work. I employed nobody to assist me in Grand Rapids. I don't remember how many signatures I obtained in Grand Rapids. After the petitions were signed I believe I gave them to Mr. McGraw. I circulated the Helme petitions in other places besides Grand Rapids; I believe the first ones were at Coopersville, though I stopped at Holland on my way there, and employed a man named Cummins to circulate these petitions. In Coopersville, where I was acquainted, I circulated these petitions alone. From Coopersville I went to Grand Haven, where I employed a man of Grand Haven whose name I have forgotten, to circulate them. Mr. McGraw told me this man's name before I left Grand Rapids. I gave him five cents a name for each name. He got about a hundred names and I gave him $5.00. I don't think I circulated any petitions there, I don't remember. Mr. Walter T. Welsh, Mr. McGraw and myself agreed amongst ourselves to make the different towns that we did after my talk with Mr. George Welsh. From Grand Haven I went back to Holland and circulated the petitions myself. Cummins had only secured about ten or eleven names. I had told him I would give him five cents a name for circulating the petition. I don't think he wanted to take anything, but I paid him fifty-five or sixty cents. From Holland I went to Macatawa Park, where I circulated the Helme petitions myself, employing nobody else. The next town I made was Saugatuck, where I did the work alone. I do not believe I circulated the Helme petitions in any other towns or did any further work in Grand Rapids with them. I do not remember that Mr. George Welsh told me the necessity of hurrying the petitions—to get them signed as soon as possible. I received $5.00 a day for the work that I did in connection with the Helme petitions—probably six days, if I remember right. I believe Mr. Frank McGraw handed me the $30. I got my expenses, railroad fare and hotel bill. The money I paid these other men who circulated the petitions was also returned to me as a part of the expenses. After these petitions were all signed I believe that I handed them to Mr. McGraw.

FRANK WILLIAM McGRAW, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My residence is in Grand Rapids, Michigan; I am a traveling salesman. I was connected with the National Labor Press Association and had office space in the Murray Building in Grand Rapids. At that time Mr. George W. Welch's office and my own were in close proximity. Sometime in the summer 1918 I had a conversation with George Welsh with reference to the circulation of some petitions. He said, "Frank, I have a friend of mine"—I think Mr. Mickel was the name that was given—"who wants some petitions circulated to take care of Grand Rapids, and have you anything to do?" I said, "No, I have not, George, and I would be glad to help you out." He said, "Do you know if you can get someone else to help you?" Well, I said, offhanded, "I don't know, George, but I will try." I don't know whether the money was spoken of at that time or after I had gone out and endeavored to get one or two others. He told me that he would pay me and anybody I got to assist me five dollars a day, and expenses if we went out of town. Right after the conversation I said to him, "I will skip over and see if Tom Whiteing and Walter Welch are around." I usually met them at the Cody Hotel, and I saw them there with reference to the circulations of petitions. I circulated the Helme petitions in the City of Grand Rapids and in the City of Muskegon. I got the printed forms from Mr. George Welsh. I cannot state the correct number he gave me; there might have been five, there might have been ten. In the meantime I took these other two gentlemen to Mr. Welsh's office where we all talked it over. I said, "Boys, what towns do you want to go to?" Mr. Whiteing said, "Well, I am acquainted down in Holland." Mr. Walter Welsh said, "I am acquainted down in Kalamazoo and Battle Creek." And I said "Well, that is all right with me. You boys choose your own field; then I will go to Muskegon, because I am acquainted in Muskegon." As to the compensation these gentlemen were to receive for the work they did, $5.00 a day, and expenses if they went out of town. I am not just clear whether George gave all the Helme blank petitions to me in a roll, and I in turn gave Tom Whiteing and Walter Welsh the petitions, or whether he gave the roll to them, or it laid on a desk and they picked them up, but in any event, it was when Mr. George Welsh was present. Nothing was said in that conversation with reference to the length of time that remained in which the petitions could be got signed

and filed, only that we were to go out and get the petitions signed right away. I went to Muskegon, where I saw Mr. George Friant, whom I employed to circulate the Helme petitions, agreeing to give him I believe, ten cents a name. I remained in Muskegon to my knowledge two days at least, possibly three, I can't recall definitely. I made only the one trip. Mr. George Welsh had said to me about procuring help in these towns, "You boys will naturally want to get help, so in these towns, why, employ somebody to help you." He said we could pay them ten cents a name, to approximately around five dollars a day. I can't swear whether I paid Friant ten dollars or fifteen, but I am inclined to think it was ten. He returned the petitions that he circulated to me for me to return to Grand Rapids, with, and I immediately came back and gave them to Mr. George Welsh, and I did the same with the petitions that I circulated in Grand Rapids, after they were signed. These other two gentlemen who had been with me in this arrangement also turned in their petitions to George Welsh. If my memory is correct they joined me in the office of the National Labor Press Association, and perhaps we said, "Mr. Welsh, here are the petitions." So he looked them all over to find out what towns we made, so that he had a record where this petition came from and that petition came from. I was paid $5.00 a day and my expenses for what I did. I should judge five days. My expenses were transportation and hotel accommodation. I would say the amount was not over $5.00. Besides the $10.00 or $15.00 that was paid Mr. Friant. I had paid out $2.00 for the room at the hotel and $1.60 for the round trip to Muskegon, 80c each way, so it was the $15 and this $25.00 at $5.00 a day that I received. Mr. George Welsh gave that to me. I had nothing to do with the money that Mr. Whiting received. I believe Mr. Welsh gave me the money while the boys were there to pay them their fee and their expenses, approximately the same as myself, around $25.00 and expenses. What his expenses were I could not testify. Mr. Walter Welsh received approximately the same. He started with the petitions for Kalamazoo, Battle Creek; those were the towns that he was to handle, and brought them back from there signed and he also received his money at Mr. George Welsh's office. It was whatever Mr. Whiteing or myself received. He too was reinbursed for money he had paid out to somebody to help him. Everything was paid in cash.

CLARK W. BROWN, being sworn as a witness on behalf of the Government, testified as follows:

IRECT EXAMINATION BY MR. EICHHORN:

I live in Lansing and am Chief of the Compiling Division in
e Secretary of State's office. The petitions for the several
ndidates that were required to be filed at Lansing prior to the
918 primary were placed in my custody immediately after-
ards, and they have been in my custody ever since that time.
have the Newberry and the Helme petitions here with me in
ourt; also the records relating to these petitions. The entire
iling of the petitions requesting the name of Truman H. New-
erry to be placed upon the primary ballot as a candidate for
nited States Senator was made in the office of the Secretary of
State July 20th, 1918. The number of names that were required
nder the primary law of the State of Michigan for the Republi-
an candidate was 7209. Of the names filed with the New-
erry petition 8364 were considered; there were more than that
counted. 65 petitions with from 25 to 35 names on each of
them were filed that were not considered. We only counted and
canvassed the names up to 8364. Those were classified by coun-
ties. The total number of petitions in the various counties, ac-
cording to the petitions which were counted and canvassed, were
as follows: Baraga, 64; Berry, 98; Bay, 393; Benzie, 25; Ber-
rien, 22; Branch, 80; Hillsdale, 13; Houghton, 297; Huron, 235;
Ingham, 117; Ionia, 346; Iosco, 70; Iron, 67; Isabella, 72; Jack-
son, 189; Kalamazoo, 273; Kent, 896; Keweenaw, 25; Lake, 57;
Lapeer, 196; Leelanau, 137; Lenawee, 160; Livingston, 32;
Luce, 39; Mackinac, 56; Macomb, 146; Marquette, 237; Monroe,
196; Muskegon, 246; Newaygo, 36; Oceana, 137; Ogemaw, 98;
Osceola, 41; Osciba, 13; Ottawa, 257; Sanilac, 124; Saginaw,
246; Shiawasee, 190; St. Clair, 184; St. Joseph, 106; Tuscola,
200; Van Buren, 91; Washtenaw, 99; and Wayne, 1740. The
remaining petitions, upon which the names were not considered,
were not classified by counties. Under the Michigan law, limits
are fixed, both of minimum and maximum. Two per cent are
required, and four per cent is the maximum. We have not
made any computation of the number of names, to know
whether there were names in excess of four per cent, but evi-
dently there is not. The extra 65 petitions would not be two
per cent of them. There were also filed on July 27, 1918, 219
petitions for candidate, James Helme, for United States Senator.
That was the last date for filing. There were 5,571 names upon
them. The number required for a candidate on the Democratic
ticket was 5223. Classified by counties, the number of names
on the Helme petitions is as follows: Allegan, 68; Berry, 16;

Bay, 554; Berrien, 35; Calhoun, 230; Dickinson, 3; Emmett, 17; Genesee, 156; Hillsdale, 14; Huron, 25; Ingham, 31; Jackson, 263; Kalamazoo, 49; Kent, 791; Lenawee, 72; Macomb, 18; Manistee, 74; Mason, 19; Mackinac, 2; Monroe, 35; Muskegon, 408; Newaygo, 40; Oceana, 27; Ottawa, 142; Saginaw, 453; Sanilac, 13; St. Clair, 368; Van Buren, 31; Washtenaw, 34; Wayne, 1,563.

CROSS-EXAMINATION BY MR. LITTLETON:

Our records show that petitions were filed for the office of United States Senator by William G. Simpson of Detroit, Chase S. Osborn of Sault Ste. Marie, and Henry Ford, Dearborn. Mr. Simpson filed his petition for the office of United States Senator in the Republican party. Mr. Osborn was Republican, and Mr. Ford was a Democrat. We have one petition filed here by Henry Ford as Republican candidate. The date of the filing as a Republican candidate was on the 19th of July and the date as candidate of the Democratic party was the same date. The date of Mr. Osborn's filing was July 22nd, and Mr. Simpson's July 5th.

G. SHERMAN COLLINS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Munising, Alger County, which is in the Upper Peninsula—one of the extreme northern counties of this State, on Lake Superior. I have lived there 21 years last past and was there during the year 1918. I was bank cashier. In 1918 I had several letters from Paul King in reference to taking some part in the local Newberry organization. I was informed by Mr. Jennings that some money would be forwarded to me in connection with the organization. I do not think Mr. Jennings was called an officer of the local Newberry Committee in our county. So far as I know, there was no regular organization as such in our county. I was not denominated or called Treasurer, Secretary, or Chairman myself. I do not think anybody was called an officer.

ANNABELLE CHAPELLE HAMILTON, a witness sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I reside in Detroit and am a stenographer. From some time in March, 1918, till the latter part of June of the same year I was employed at the Newberry Senatorial office in the Ford

lding in Detroit. The defendant, B. Frank Emery, employed
. At first I was getting $25, and then when the night force
s organized, I got $40 a week. When I first went there, I
s in charge of the stenographers and handled the filing, etc.
ring the time I was there, we talked the matter over and con-
ded that we would have to have a night force in order to get
work out. I organized it and hired the girls. I should judge
enty or more girls were employed on this night force. We
d each of them fifty cents an hour. Payments of money in
office were made in currency in envelopes, generally by Mr.
ery. Mr. Turner also handed me the envelopes. Money was
pt in the vault in the headquarters, in a brown tin box about
elve or fifteen inches long, and nine or ten inches high, which
s kept locked in the vault. I never saw it handled by anyone
t Mr. Emery and Mr. Turner. I have seen them take money
m that box. I do not know as I ever saw anything but bills.
o not think there was any small money. I have seen wrapped
ls or bunches of bills in the box. At the time I was called to or-
nize this night force, Mr. Emery and I talked it over, and we
th thought that fifty cents an hour was a fair compensation for
e night girls. As to the expense of the office or what should be
me with reference to such expenses, he told me to pay what-
er sum I had to pay to get girls. He said further to spare no
pense. About a year before I was employed at the Newberry
adquarters, I had contracted with the Women's Relief Corps
report their 1918 Convention which was to be held in Sagi-
w. I had reported it two or three years, and when I took the
atter up with Mr. Emery I said I would not go if they were too
sy, but Mr. Emery thought I could do them some good in Sagi-
w, and said if I would go he would pay my expenses. He also
id Mr. Newberry had come out for Woman Suffrage, and he
ought perhaps I could do them some good down there inas-
uch as the Woman's Relief Corps was composed of women. In
e employment of girls in the office, I used my own judgment
arly all of the time, but Mr. Emery thought it would be a good
ne to employ girls that had some sort of political experience
they might have some pull. At this convention I was intro-
uced to the defendant, William Mickel, by Mr. Ames of Battle
reek. Mr. Mickel said that he was a Democrat, but that he was
ing to work for Mr. Newberry, also that he was going to put
some man that wouldn't have any show on a Democratic
cket; he would do that if he had to run himself. Mr. Helme's
me was mentioned at that time by Mr. Mickel, but I cannot
ll you just what it was. A Bolo Club was talked about at this

time in Saginaw. The G. A. R. and Spanish War Veterans, etc. could not come out as a body for any candidate, being patriotic organizations, so they were going to organize this Bolo Club that was to consist of these different organizations, and were going to put a motion before this Bolo Club to support Mr. Newberry as a body. It was done and a telegram was sent to Newberry headquarters that it had been done.

During the time that I was connected with the Newberry headquarters at Detroit, I took dictation from Mr. Emery. I took letters from him to Mr. Newberry at New York relative to conditions in the campaign throughout the state. Letters were prepared in headquarters with the New York date line to be sent on to New York for the signature of Mr. Newberry. They were sent in packages to a postoffice box number. Important mail was bunched and sent to Mr. King when he was out on the road or up in the state, whether he was in New York or some place up in the State. When it was sent to New York it was sent to the same box number to which this mail was sent to Mr. Newberry. I have often had in my possession a mailing list which was kept in the office indicating the various officers—the Chairmen and Secretary—of the Newberry Committee in the counties over the state. The paper now shown me marked "Government Exhibit No. 38" is a correct photographic copy of that list I have just spoken of, or a list just like it.

MR. DAILEY here offered the paper in evidence.

MR. LITTLETON objected to its admission on the following grounds: That no account had been given of the original, no effort made to give any account of the original; no effort to prove the taking of the photographic copy, and no account given of how the original came into the possession of the Government, which might raise a very grave question as to the admissibility of the photographic copy; that until some information was adduced as to the making of the photograph, when made, how obtained, the introduction of this sort of evidence was challenged very seriously; that so far as the evidence then offered was concerned, it may have well been the result of a seizure, so far as the Government is concerned; that if it were so, it would be subject to very serious objection under well-known rules, and well-known authorities, and until such time as the defendants could ascertain how this photographic copy was made, and where the original was, why the original is not produced; that if they had the original, to make the photographic copy, they must have the original now, unless they account for the loss of it, or make some account of why they do not offer the original; that there was no

dence in connection with the offer, as to who prepared this , or as to who suffers any responsibility on account of the list; t if the Government has the photographic copy, they must e the original, or must have had the original; that if they had they ought to offer the original; if they have had the original, d have not got it, they ought to account for the loss of it, or ir failure to have it now.

The Court: It may stand.

Mr. Littleton: I take an exception.

Mr. Dailey read the paper to the jury as follows:

"GOVERNMENT EXHIBIT NO. 38"

ona	Hon. George W. Burt (My dear Judge)	Harrisville	Chairman
	R. E. Prescott (Mr.)	Lincoln	Secy.
ger	Hon. H. S. Jennings (Mr.)	Munising	
	G. Sherman Collins (Mr.)	"	
legan	Hon. L. L. Thompson (My dear Judge)	Allegan	Chairman
			Secy.
pena	Alex C. Green (Mr.)	Alpena	Chairman
	H. Wentz	"	
trim	James Deevy (Jim)	Bellaire	Chairman
			Secy.
nac	Hon. John W. Dunn (My dear Judge)	Standish	Chairman
	G. H. Glasure (Mr.)	"	Secy.
raga	Hon. W. S. Crebassa (Mr.)	L'Anse	Chairman
			Secy.
rry	A. A. Anderson (Archie)	Hastings	Chairman
	A. F. Norris	"	Secy.
y	Homer E. Buck (Homer)	Bay City	Chairman
	Richard H. Fletcher	" "	Secy.
nie	Ed. M. Dixon (Mr.)	Thompsonville	Chairman
	W. V. Capron	Frankfort	Secy.
mien	A. H. Burger (Burt)	Benton Harbor	Manager

Branch	A. B. Gorman (Mr.)	Coldwater	Chairman
	James Swain (Mr.)	"	Secy.
Calhoun	James H. Mustard (Mr.)	Battle Creek	Chairman
	Thomas Bigger (Tom)	Marshall	
	Claude Walkenshaw	Battle Creek	Secy.
	Fred S. Barnard, 36 So. Frankoin St. (Dear Mr.)	" "	
Cass	Carl D. Mosher (Carl)	Dowagiac	
	E. Bruce Laing (Bruce)	"	Secy.
	George M. Fields (George)	"	Chairman
Charlevoix	Hon. J. M. Harris, (Judge)	Boyne City	Chairman
	D. H. Fitch	East Jordan	Secy.
Cheboygan	John C. Rittenhouse (Mr.)	Cheboygan	Secy.
Chippewa			
Clare	C. O. Reading (Mr.)	Clare	Chairman
Clinton	Edw. W. Fehling (Ed.)	St. Johns	
Crawford	Marius Hanson (Mr.)	Grayling	
Delta	Hon. Judd Yelland (Judge)	Escanaba	Chairman Secy.
Dickinson	S. J. McGregor (Mr.)	Iron Mountain	Chairman
Eaton	Dr. J. B. Bradley (My dear Dr.)	Eaton Rapids	
Emmet	Hon. W. S. Meesick (Congressman)	Petoskey	Chairman
	H. A. Barber (Mr.)	"	Secy.
	W. S. Darling	Harbor Springs	

enesee	Fred Henry c/o Mich. Free Employment Bureau (Mr.)	Flint	
	H. E. Potter	Flint	
adwin	Dr. Leininger (My dear Dr.)	Gladwin	
	Hon. Isaac Foster (Judge)	"	
ogebic	D. C. Houk (Mr.)	Ironwood	Secy.
rand Traverse	Parm C. Gilbert (Parm)	Traverse City	Chairman
	Elmer E. White (Mr.)	" "	Secy.
		St. Louis	
ratiot	Alf. Crawford (Mr.)	Breckenridge	Chairman
	Gaylord Nelson (Mr.)	Ithaca	Secy.
illsdale	William Prideaux (Mr.)	Hillsdale	Secy.
oughton	James T. Fisher (Jim)	Laurium	Chairman
	John E. Mackey	Houghton	Secy.
uron	Dr. Chas. B. Morden (My dear Dr.)	Bad Axe	Chairman
	Paul Woodworth, (Paul)	"	Secy.
ngham	Dr. W. T. Shaw (My Dear Dr.)	Lansing	Treas.
	Fay G. Dunning (Fay)	"	Chairman
	Hugh Lundberg	"	Secy.
onia	Hon. Frank C. Miller (Frank)	Ionia	Chairman
	R. A. Colwell (Mr.)	"	Secy.
	Hon. Clyde Watt,	"	
osco	James E. Dillon, (Mr.)	Tawas City	Chairman
	Waldo I. Curry, (Mr.)	East Tawas	Secy.

Iron	Hon. Claude Ritze (My dear Judge)	Iron River	
	M. E. Richards (Dear Mr.)	Crystal Falls	
Isabella	John S. Weidman (Mr.)	Mt. Pleasant	Chairman
	F. E. Morrison (Mr.)	"	Secy.
Kalamazoo	Hon. Chas. H. Farrell (Charles)	Kalamazoo	Chairman
	Harrison Merrill, (Mr.)	"	Secy.
Jackson	Dan Laughlin (Charles)	Jackson	Secy.
	Lacernie Patch,	"	
Kalkaska	A. D. McBurney, (Mr.)	Kalkaska	Chairman
	Joshua I. Boyd, (Mr.)	"	
Kent	Charles A. Floyd	Grand Rapids	
	Alvah Brown, (Alvah)	" "	Chairman
	Hon. Geo. W. Welsh (George)	" "	Secy.
Keweenaw	Russell Smith (Mr.)	Ahmeek	
Lake	Dr. Earl Fairbanks (My dear Dr.)	Luther	Chairman
	Herbert W. Davis (Mr.)	Baldwin	Secy.
Lapeer	George Carrigan, (George)	Lapeer	Chairman
	Mel Deo (Mr.)	No. Branch	Secy.
Leelanau	Hon. Martin Brown (Judge)	Leland	
	Ralph Hughes (Mr.)	Sutton Bay	
Lenawee	Fred C. Acker (Mr.)	Adrian	Chairman
	Glenn L. Williams (Glenn)	Adrian	Secy.
Livingston	Hugh McPherson (Mr.)	Howell	

Luce	Dr. F. P. Bohn (Doctor)	Newberry	Chairman
	John Turnbull	"	Secy.
Mackinac	Robert H. Benjamin (Mr.)	St. Ignac	
	E. H Hotchkiss	"	Chairman
	Edw. McNamara	"	Secy.
Macomb	Wm. T. Hosner (Will)	Romeo	
	Geo. W. John (Judge)	Mt. Clemens	
Manistee	August Field (August)	Manistee	Chairman
	John Meier (Mr.)	"	Secy.
	R. M. Hoffman (Mr.)	"	
Marquette	Wm. Trebilcock	Marquette	Secy.
	Myron J. Sherwood	"	Chairman
Mason	K B. Mathews (Mr.)	Ludington	Chairman
	W. E. Blake (Mr.)	Scottville	Secy.
Mecosta	Ed. Dresser (Mr.)	Big Rapids	Chairman
	Geo. E. Hurst (Mr.)	"	Secy.
Menominee	Roger M. Andrews (Roger)	Menominee	Chairman
	Geo. W. McCormick	"	
Midland	John E. Kern	Midland	
Missaukee	John Q. Zuck (John)	Lake City	Chairman
	Hon. Orvill Dennis (Judge)	"	Secy.
Monroe	Fred Cronenwett (Fred)	Monroe	Chairman
	Emery Mills (Mr.)	Dundee	Secy.
Montcalm	E. J. Bowman	Greenville	Executive
	Fred Northrup (Fred)	Lakeview	

Montmorency	Foster Cameron (Mr.)	Atlanta	Chairman
	John Knapp (Mr.)	Hillman	Secy.
Muskegon	Chris. A. Brock (Chris.)	Muskegon	Chairman
	(Harry Jackson)		
Newaygo	Dallas Alton	Fremont	Secy.
	W. J. Branstrom (Mr.)	Fremont	Chairman
Oakland	Hon. Frank L. Covert (Hon.)	Pontiac	Chairman
	Hon. F. E. Seeley	Pontiac	
Oceana	Gardner T. Sands (Gard.)	Pentwater	Chairman
	W. E. Lewis (Mr.)	Hart	Secy.
Ogeman	H. W. Shulty (Mr.)	West Branch	
Ontonagon	John Jones	Ontonogan	
Osceola	Geo. A. Glerum (Mr.)	Evart	Chairman
	A. M. Fleishasner	Reed City	
Oscoda	Alex C. Bissland (Mr.)	Mio	Chairman
	Edwin C. Goodwin (Mr.)	Mio	Secy.
	Orwin A. Phelps		
Otsego	Hon. Claude A. Shannan (My dear Judge)	Gaylord	
Ottawa	E. P. Stephan (Mr.)	Holland	Chairman
	Wm. M. Connelly (Mr.)	Grand Haven	Secy.
Presque Isle	Rudolph Duehlgen (Mr.)	Rogers City	
	Harold Whiteley (Hal.)	Rogers City	
	Arthur Devine (Mr.)	Onaway	
Roscommon	J. Burt Kiely (Mr.)	Roscommon	
	Bruce Rutledge (Bruce)	Roscommon	

Saginaw	Hon. Clarence M. Brown (Judge)	Saginaw	Chairman
	Earl J. Davis (Earl)	Saginaw	Secy.
Sanilac	John Cawood (Mr.)	Brown City	Chairman
			Secy.
School-craft	Benj Gero (Mr.)	Manistique	Chairman
	F. E. Guinan (Mr.)	Manistique	Secy
Shiawas-see	W. B. Whitehead (Mr.)	Owosso	Chairman
	Neil R. Walsh (Mr.)	Owosso	Secy.
St. Clair	Hon. Burt D. Cady (Burt)	Pt. Huron	
	Thos. H. George	Pt. Huron	Secy.
St. Joseph	Hon. W. F. Thomas (Judge)	Constantine	
	J. B. Burns (Mr.)	Three Rivers	
Tuscola	Henry S. Myers (Mr.)	Caro	Secy
Van Buren	Frank M. Wakeman (Frank)	Paw Paw	
	Gladstone Beatty (Glad)	" "	
	Royal Decker	" "	
Washtenaw	Richard L. Owen (Dick)	Ypsilanti	Chairman
	Geo. S. Vandawarker (Geo.)	Ann Arbor	Secretary
Wayne	Milton Oakman (Milton)	Don't write	Chairman
	Zalie B. Clago (Zalie)	" "	Secy.
Wexford	W. H. Yearnd (Mr.)	Cadillac	Chairman
	Hon. Fred Breen (Dear Judge)		

THE WITNESS (continuing): The list which has been offered in evidence, was the list that I and the others in the office used in the mailing of letters or circulars, or what else was sent out.

CROSS-EXAMINATION BY MR. LITTLETON:

We had several other mailing lists. We had a list which contained the various members of the various committees in the several counties in Michigan. This list which has been introduced in evidence and read seems to relate to the chairmen and secretary of the various organizations.

MR. LITTLETON: Now, if Your Honor please, I ask that Your Honor require the Government to produce the original of this list.

THE COURT: If they have it in their possession, they may do so.

MR. DAILEY: We would be very glad to, if we had it, Your Honor. I think the defendants can find it themselves. We haven't got it.

THE COURT: Simply state whether you have it or not.

MR. DAILEY: No, sir.

THE COURT: Very well.

THE WITNESS (continuing): The vault in which the brown tin box I spoke of was kept is built in the building. It is just a small room, with shelves, and a regular safe door to it. We kept supplies, and so forth in that room, and things that were necessary to outfit the office. Postage stamps were kept in the tin box. When the pay roll was to be made up, Mr. Emery used to make a sojourn out of the office with his hat and coat on, then come back into the office. I do not know where he went; it was not taken out of this box. He went some place and got the money, and made up the pay envelopes, which were distributed to the people employed there. It was not difficult at that time to get girls to work on the night shift account of the demands in Washington and other places. We seemed to be able to find them. Most of the night girls did no stenographic work; they operated the typewriting machines and made cards for the filing system. We had been employing night girls for perhaps a month and a half, or maybe a little bit more, when I left there the latter part of June. The convention at Saginaw was a regular G. A. R. Encampment. I was department stenographer for the Woman's Relief Corps and it was my duty under the prior employment, or under my official position with the Women's Relief Corps, to go there. I asked Mr. Emery if he could spare me to go long enough before the convention so they could obtain another stenographer, and he advised me to go. It was not anything in the way of a vacation. If I could get excused from the work there in the headquarters I wished to go, and do my work as stenographer

or the Women's Relief Corps. I believe that was the way we alked about it. So it was arranged that I should go, and I did go. Mr. Ames introduced me to Mr. Mickel. Mr. Mickel, Mr. Rice and Mr. Ames were dining together at the same table. During that conversation, Mr. Mickel first said he was a Democrat, but he was going to work for Newberry. Then he said he was going to put up some man on the Democratic ticket, one who would not be strong enough opposition to Mr. Newberry after the primary. They were going to put up a Democrat after the primary to run in the final election. His expression was that if he did not get anybody else, he would run himself. I know that the Bolo Club was organized during the time of the G. A. R. Encampment held in Saginaw. I do not believe it had been organized prior to that time. I could not say that I know what it was made up of. The Spanish-American War Veterans were meeting there at the same time. The Bolo Club was made up from all of these patriotic organizations, who met at Saginaw during the G. A. R. campaign encampment. I do not know it to be a fact that the Bolo Club was made up of Spanish American War Veterans, and had been organized for a long length of time, and that it was made up of those Spanish-American War Veterans who had served in the Philippines, as distinguished from those Spanish-American War Veterans who served elsewhere in that war. My understanding was the Bolo Club was organized there. I never had heard that there was a Bolo Club, that got its name, and that its organization grew out of the service men in the Philippine Islands, as distinguished from men who served in Cuba and elsewhere. That was not the Bolo club to which reference was made. It was suggested that a motion would be put before the Bolo Club for the purpose of having them decide whether or not they would stand as a body for Newberry. I do not know that Mr. Newberry was a Spanish-American War Veteran, and a member of that order.

Referring back to what Mr. Mickel said to me at Saginaw at the time he was talking about running a Democrat against Mr. Newberry, he gave as his reasons that he was working for Newberry. I do not remember that he said Mr. Ford had been placed on the ticket for Senator with the understanding that he was to run on both tickets at the primary. I do not believe that Mr. Mickel advised me that this proposal with reference to placing a Democrat in the field was because Mr. Ford was seeking a Republican nomination as well as a Democratic nomination. I cannot remember of him saying it. I would not admit any-

friends at the different mines with the literature as I received and asked them if they would distribute it around their mines that is the main work I did. I did not have a secretary of our county. I did the work myself in reference to our county with the different fellows at the different localities who would work with me. I did not get anybody to help me do the work, except those friends of mine. I handled it about the way I did the war drives; my friends would help me distribute the literature. I was well acquainted in the county. I lived there seven years. Mr. King wrote me about two letters; I do not remember answering. I do not believe I have them; they were not important; he wrote and asked me to take the chairmanship in one letter, and in another letter stated that he was sending a bunch of literature. Those are the only letters that I recall having gotten from him.

WILLIAM R. BARBER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Harrisville, Michigan, which is the county seat of Alcona County. I have been County Clerk of that county since January 1st, 1909. Some time in April, 1918, I saw the defendant Benjamin F. Reed, whom I had known prior to that spring, in my office at Harrisville. A conversation occurred between us at that time. He asked me if I would look after Mr. Newberry's campaign in the primaries in Alcona County, in the Senatorial contest that was ensuing for 1918. I told him that I could not do it, and he asked me my reason, and I told him I had several reasons; the first one was that I didn't have the time, I told him that I could not handle it, and that I had friends there who were not supporting Mr. Newberry and I didn't want to antagonize them; that I might have opposition myself, and I did not want to tie myself to anybody else's campaign, if I should have opposition myself. He told me that so far as any other candidate was concerned, they didn't have a chance, because Mr. Newberry had the money, and he was going to spend it, and that I better be careful who I made my choice for United States Senator, because Mr. Newberry was going to build a machine in every county in the state, and candidates that would oppose him would be defeated for county office. I referred him to Mr. Chapelle, the editor of the Alcona County Review. After that conversation Mr. Reed came back to the office, in the afternoon, or near that time, and asked me if I had changed my mind regarding the

matter, and I told him I had not, and he said that money would be no object. I told him that I could not have anything to do with Mr. Newberry's campaign. I know the defendant Rola P. Prescott, he was the editor of the Alcona County Herald; I think he is yet. He was connected also with the Rogers City Advance, but not before the primary, as I understand. He afterwards acted for the Newberry Committee, or in connection with the Newberry Committee in my county. He came to see me once for a list of names that I had written the Newberry office about. I had written the Newberry office and told them that I had this list of names; that I had sold it to many other candidates and that probably they would want them for advertising purposes, and he came for them; I didn't have them ready at the time, and he didn't get them. I furnished him a list of the voters there, but I took the list of names to the Detroit office myself, when I went to Detroit later. I received my pay from Mr. B. F. Emery in the Detroit office. He paid me $10.

CROSS-EXAMINATION BY MR. LITTLETON:

I sell my list of names to every candidate I can. I did not this year, 1918, but in prior years I had done so, receiving pay for them. I have had this list for about ten years; I keep it up to date all the time, adding to it each year and dropping names out. I keep the proper addresses of people and when a campaign comes about, if I can, I sell this list to those interested in circularizing the people. Anything I did in this campaign was in favor of Mr. Osborn; I was only out two days. I was running myself. I was not so careful about being very active in behalf of any particular candidate for Senator after I had been threatened. When I say "after I had been threatened," I mean by this conversation I had had with Mr. Reed; I proposed to take care of myself; I didn't do any work for Mr. Osborn after that. The Osborn men there asked me to go with them on a couple of trips through the county, and I went two days automobiling; we didn't have any speeches; just went around among the people that we could see in those two days, and urged Mr. Osborn's candidacy. I had known Mr. Reed probably six years before this conversation with him in my office. I had been active in politics in that county since 1908. I didn't have anything particularly against Mr. Newberry, but the County Treasurer and the State Senator, some of my friends, were Osborn men and I did not want to work against them. Mr. Reed told me that I had better be careful, or words to that effect, which side I took. I finally told him that I wouldn't have anything to do with Mr. Newberry's cam-

thing I cannot remember. I will say that I do not remember it being said.

RE-DIRECT EXAMINATION BY MR. DAILEY:

We kept a card for each man that we wrote a letter to and the dates that the letters were sent to him. I presume that it would be a card for nearly every voter in the state of Michigan.

RE-CROSS EXAMINATION BY MR. LITTLETON:

I think the meeting in Saginaw commenced either the 20th 21st or 22nd of June. It was held three days.

WALTER WARE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Boyne City. In the Newberry campaign of 1918 I was requested, and accepted, but not employed to do any work. I was first requested to circulate a nominating petition, which I did. I was also requested to circulate the literature of Mr. Newberry. They were small folders. I did this work at the request of the defendant John M. Harris. He gave me money twice. Shortly before the primary he gave me $5.00 in connection with the circulation of the petition. He gave me $10 after the general election. I received the letter now shown me, marked Government Exhibit No. 39, in due course of mail.

The paper referred to by the witness was here received and read in evidence, without objection.

GOVERNMENT EXHIBIT NO. 39.

Truman H. Newberry,
Detroit, Michigan.

New York,
September 3, 1918.

Mr. Walter Ware,
Boyne City, Michigan.
My dear Mr. Ware:—

I have been advised of your splendid helpfulness in the campaign just closed and am indeed grateful for your assistance.

It is a pleasure to feel that I may look forward to your continued support in the election. The issue is the same as in the primary, of course, and Michigan Republicans may be depended upon to meet it successfully.

With many thanks and best personal regards, I remain,

Sincerely yours,
TRUMAN H. NEWBERRY.

CROSS-EXAMINATION BY MR. LITTLETON:

This was the first Newberry petition that was circulated in Boyne City. I was a Newberry man before I circulated it. I took the petition and went right about it, and I obtained all of the necessary names within an hour, put it in an envelope and mailed it, so that was all the time that I took at that. I circulated the literature in the town just when I would be meeting people on the walks, and throwing them into automobiles and buggies that were docked beside the street, and I went to two factories just before closing time one evening and caught those going to the factories for night work.

MORRIS E. RICHARDS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Crystal Falls, Iron County, Michigan, and was living there in the summer of 1918. I have met Mr. Paul King. I had some conversation with him in the summer of 1918 in connection with the Newberry campaign. I was chairman of Iron County. He and James F. McGregor called on me in connection with my duties as chairman before I was appointed chairman. After Mr. King's visit, I received a communication from him asking me if I would act as chairman. Mr. McGregor called on me, possibly a month after that. He told me that I would be reimbursed for any actual expense that I was put to. He afterwards paid me something in the neighborhood of $60. I rendered a statement or an account of expenses to him, and it was in that connection that he paid me the money. He paid it personally. I think it was all currency.

CROSS-EXAMINATION BY MR. LITTLETON:

I am in the iron mining business. I did not know Paul King before this campaign. Mr. King first called on me personally in reference to it. He was making a trip through Iron County. I am not certain that I was a Newberry man before the campaign was made. I am inclined to believe I was, but I would not say for sure; I did not take an active interest until after Mr. King had talked to me about it. He wanted me to act as chairman for Iron County for the Newberry committee. He told me he wanted me to organize, that is, appoint chairmen of the different districts and to help distribute Newberry literature through Iron County. I did not accept the suggestion right away, but later on I did. The main work, after I accepted, was to go to my

paign. Mr. Chappelle did not refer Mr. Reed to me, not that I know of. He may have before he came to see me, but I don't think it. Mr. Reed told me that he came to see me first; that is why I think that he didn't. I do not recall a telephone call from Mr. Chapelle's office in which Mr. Reed was speaking after having been referred to me by Mr. Chapelle; I am not saying that he did not, but I can't remember anything of the kind. Now, such a thing may have happened, but I can't remember it.

When I had been enabled to complete this list and type it, I took it to the Detroit office and there delivered it and received $10 for it. I was disposing of it for the money there was in it.

RE-DIRECT EXAMINATION BY MR DAILEY:

At the time the defendant Reed told me about the Newberry organization and money he told me that Mr. McGillivary, who is representative in the state legislature from our district, was, he had learned, an Osborn man, and he wired the Newberry office in Detroit, and the Newberry office immediately got into communication with Mr. Dillon, and Mr. Dillon called Mr. McGillivary on the phone and told him if he wanted to succeed himself in the legislature he better come off on the Osborn stuff. "Now," he said, "Mr. McGillivary is a Newberry man."

AUGUST KLETBUSCH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Dorr, Allegan County, all my lifetime. I am a farmer. I am acquainted with the defendant Charles Floyd. I have seen him a few times. I saw him one evening in the spring of 1918, during the primary campaign, at his residence, Wyoming Park. I could not tell what month it was. It might have been a month before the primary. Mr. Floyd told me that he had cards and stuff to distribute for Newberry, and if I would be willing to handle those, or wanted to handle those, he would give me $25. He gave me the $25 in cash at that time. Later he mailed me about a hundred cards, all in one bunch; they were about four inches long and probably two and a half inches wide. I received no other cards from him.

CROSS-EXAMINATION BY MR. LITTLETON:

I distributed a few of the cards, and those that I did not get rid of, I burned up. I had known Mr. Floyd about two years. I have a sister who was employed by Mr. Floyd at that time at his house.

E. M. DIXON, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Thompsonville, Michigan. I am acquainted with Charles Floyd and knew him during the summer of 1918. I met him at the Pantlind Hotel in connection with the Newberry campaign in that year. I had not known him before that. Previous to our meeting, I was talking to Mr. King and he told me that Mr. Floyd would see me; he told me Mr. Floyd was in the Rapids; I told him I would be in the Rapids in a few days and I would see Mr. Floyd. I came to Grand Rapids and hunted up Mr. Floyd. At that time I had some conversation with him about doing work in the campaign. There was nothing said about compensating me. He said if I had any expenses that he would take care of them. I got no money from Mr. Floyd. I afterwards got $25 on account of campaign expenses from the defendant Capron. I made no statement in connection with the receipt of that money to the Newberry Committee or any person. I was present at a dinner at Traverse City during the campaign, at which Mr. Paul King and Mr. Floyd were also present. I think there was some conversation between Mr. Floyd and myself at that time with reference to expenses and the payment of money. I do not recall definitely what was said, but if my memory serves me correctly, Mr. Floyd asked me about what my expenses would be, and I said I thought twenty-five dollars would cover the expenses. If I remember correctly, he said that he would take care of the expenses—any expense, I think, he said—if they were more than that.

CROSS-EXAMINATION BY MR. LITTLETON:

I am Cashier of the Thompsonville Bank, with which I have been connected twenty-two years. Mr. Paul King first spoke to me about meeting Mr. Floyd at Grand Rapids. I do not know how long I had known Mr. Paul King. I sat on the Republican State Central Committee with him for some time, got acquainted with him at that time and have known him ever since. Roughly I would say I had known him ten years. It was by arrangement with Mr. Paul King that I met Mr. Floyd at the Pantlind Hotel. There was no discussion of or reference to any compensation to me. After that I saw that the petitions and the literature were circulated in my town and county. I had my friends circulate the petitions and I made a trip to the county by automobile and distributed the literature to people, and had them distribute it.

I was a Newberry man when Mr. King first spoke to me about it. I should call the function I attended at Traverse City a big luncheon. Twenty-five or thirty men who were interested in Newberry's campaign attended it. Each person, or nearly each person, spoke up and told how they thought their vicinity would go. My active connection with the Newberry campaign ended after the primary. I had some correspondence with Mr. King during that period and also with Charley Floyd. I have it with me (Witness produces papers). I replied to some of these letters which I have produced, but I did not keep copies of my replies. I have only the letters which I received from Mr. King and Mr. Floyd. I identify the papers now shown me as those which I received from them.

The King letters referred to were here marked for identification Defendant's Exhibits 1, 1-A, 1-B, 1-C and 1-D; and the Floyd letters as Defendant's Exhibits 2, 2-A and 2-B.

THE WITNESS (continuing): I do not know who paid the expenses of that dinner at Traverse City. I did not. I did not pay for my own meal at that time.

RE-CROSS EXAMINATION BY MR. LITTLETON:

Most of the men who attended the dinner were the Chairmen that had been called in from the different counties.

WALTER W. SMITH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Soo, Michigan. I have lived in Michigan all my life, and at the Soo about two years. I am manager of the San Antonio Mining Company. Prior to that time I had a real estate and employment office in Soo, Michigan. In 1918 I was a court stenographer with an office at the Soo. I met the defendant, James F. McGregor, about the 28th of October, 1918. He gave me at that time the card now shown me marked Government Exhibit No. 41. I had no conversation with Mr. McGregor at that time, except that he requested that I write a letter. I asked whether I should take the dictation in shorthand. He said no, that he thought he could do a better job by writing it in long hand. He wrote two or three letters in long hand and I transcribed them on the machine and made carbon copies. The paper now shown me marked Government Exhibit No. 42 is a carbon copy of the letter I wrote on that day, the date of the letter at the request of Mr. McGregor to Mr. Truman H. Newberry. It was made at the same time the original was made.

The card and paper referred to by the witness were offered
d received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 41

"J. F. McGREGOR,
Assistant Secretary,
ruman H. Newberry Senatorial Committee,
310 Ford Building,
Detroit, Mich."

GOVERNMENT EXHIBIT NO. 42.

"Saulte Ste. Marie, Mich.
Oct 25, 1918.

ieut. Commander Truman H. Newberry,
Office of the Commandant,
Third Naval District,
280 Broadway,
New York, N. Y.

ly dear Commander:

Your kind favor of the 17th received and in reply will give
ou some more information in reference to the Upper Penin-
ula. Before leaving Dickinson County, I called on Mr. O. C.
Davidson, Supt. of the Oliver Mining Company and had a very
leasant visit with him, spending over two hours with him. I
id not want to trespass on his time, but he insisted on me visit-
ng with him and I accepted the opportunity. He is a power
n the Iron Mining District, which you know, but he is very
trong for you and will so instruct all of his interests to work
or you on election day.

Delta County:

You will remember this County gave you an unexpected ma-
jority and will now give you still greater support on election day.
Made a personal call on all of our strong opponents and find
them all in line for you. Called on M. K. Bissell, Chairman Rep.
County Committee, Hon. Judd Yelland, H. R. Dolsch, Mr. Katz,
Supt. of the C. & N. W. Railroad, John Lambert, M. M. of the
same road; R. F. McLean, of Wells, Sec. of the I. Stephenson
Lumber Co., a very strong man who we did not have for per-
sonal reserve at the primary, but is very strong now for you.
This County will give a good account of itself.

Mayr County:

The only thing that can be said of this County is that it is in
first class shape as it was in the primary, and the following gen-

tlemen are still looking after your interest: Theo. E. Bissell, Chairman County Committee; G. Sherman Collins, V. P. and Cashier, 1st National Bank; H. S. Jennings, Mayor of Munising; and the Hon. Arthur D. Wood, Editor. We have both papers here with us, and Fred W. Baldwin, Supt. of the Munising Paper Company, who is now with us. I tried hard to get him at the Primary but for personal reasons was with Osborn, strong man in this county.

Marquette:

Under the able guidance of M. M. Duncan, this County will show its respect to you election day. Had a fine visit with Mr. Duncan Tuesday and he deserves a great deal of credit for his earnest support towards you. Called on Hon. F. A. Bell, Pres. State Bank at Nagaunee, Attorney for the C. N. W. R. R. and delegate to the last National Convention. He is a strong man for you and E. J. Robbins, Mayor of Negaunee. Myron T. Sherwood of Marquette is looking after this city.

Schoolcraft County:

Has a decided change from the primary and Mr. Benj. Gero who had charge of your campaign there and myself went through the county and the obstacles that we had to go against have been removed and we can look for a Republican majority there.

CHIPPEWA COUNTY:

You know that we did not make any campaign in this County during the Primary and I won't forget the reception that has greeted me here in the last few days. It is a great compliment to you. I have called on all the leaders and men in all walks of life and have yet to find a person against you, and they are going to vote the straight Republican ticket.

Luce County:

If the "Flu" is over in this County, especially Newberry which is stricken the hardest in the State, this County will give you 90% of their total vote. Dr. Frank Bohn is looking after your interest and he will do it well.

Mackinac County:

Will again come to the front as it did primary day. Robert Benjamin, the Sheriff of this County, is looking after your interest and a fine fellow and will give good reports.

This completes the Upper Peninsula that I have had charge of and I predict that you will receive a magnificent majority from up here.

The attack made against you and your friends has only stimulated them to work harder.

You have my best wishes. I remain

Yours truly,"

S-s.

THE WITNESS (Continuing)

After the letters were written, I delivered the originals to Mr. James F. McGregor, the gentleman who had given me the card.

CROSS-EXAMINATION BY MR. LITTLETON:

I wrote three letters, or possibly four, which had been written out in longhand by Mr. McGregor. I kept carbon copies of the others, which I delivered to the Government, the same as I did this. My employment has been altogether in the mining line in the last two months. Before then I was in the real estate and employment business at the Soo. I was employed by the United States Government in the Forest Service of the Department of Agriculture between 1910 and 1915. Since that time I have had no special employment. I have done no work gratuitously for the Government since that time, or been directly or indirectly connected with the Government.

JOHN A. LORANGER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Highland Park, Wayne County. I formerly lived in Vassar, Tuscola County. I know Terry T. Corliss. I was living at Vassar in 1918. In the spring of 1918, Mr. Corliss called on me at Vassar and asked me in regard to Mr. Newberry. I stated to him that I was in favor of Mr. Newberry. He then asked me if I could do any work, and I told him no. My other duties occupied my time. I was working for other candidates as well.

I know a Mr. Henry Meyers. He called on me in connection with the Newberry campaign. He lived at Caro. The first time he called nothing was said to me about money or financial arrangements that had been made for Vassar Township. At a later call I suggested that there ought to be some work done in the Township of Vassar, and that in my judgment I thought it would be a good plan to have a speaker some Saturday night. He said that the committee had set aside $60 and paid me the cash. That was before the primary. I advanced an additional $5, which was afterwards paid to me by Mr. Myers. I used

this $65 in this manner: $4 for printing bills for the speech; $1 I paid small boys for distributing the bills; I paid $5 for a little band that we had; $10 for the Opera Hall, Henry Tibbitts to make a canvass of the Village of Vassar; $15, Willard Pecure for canvassing or making a canvass and to bring in voters that would otherwise not get there, $10; Mr. Baxter $10 for the same purpose; Mr. Levis $10 for the same purpose. I told Mr. Myers what I had spent; I did not report to the Newberry committee. I did not make a regular statement of my expenses to Mr. Myers, nor do I think he took a written statement at the time.

ORVIL DENNIS, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Lake City, Missaukee County, and am the publisher of the newspaper called The Missaukee Republican. I was in that business at that place in 1918. Somewhere along March or April, 1918, the defendant George Welch approached me and had a conversation with me about the Newberry campaign. Nothing was said to me about expenses of the campaign. Later on and before the primary, Judge Harris of Boyne City was there. He said something about the campaign, and with reference to the conversation I had with Mr. Welsh. At that time Judge Harris said that we should organize as a committee, that any necessary expense would be taken care of legally in that way. After the primaries Mr. Charles Floyd sent me two checks from Grand Rapids. The first, which was on the Old National Bank for $35, was not honored. Then I got a subsequent check on the Commercial Savings Bank of Grand Rapids. I also did some advertising in my newspaper, for which I received $23.30, which was paid to me from Detroit by check. In addition, there was paid to me in connection with the campaign $1 subscription fees to the paper. That was paid from Detroit by check. I received some letters from Senator Newberry both before and after the primary. It was along about the time I was running the advertisement in my paper. I have that correspondence.

CROSS-EXAMINATION BY MR. LITTLETON:

I have been a State Representative for two terms. I was a Newberry man in the Spring of 1918. I had not decided very much about it, or thought very much about it, before Mr. Welsh came, and I gave him no particular answer about it, but it was

ge Harris talked with me. I don't remember that and I had any discussion about expenses of the cam- might have been a month or two, or a few weeks, efore I saw Judge Harris. I became Secretary of rry organization for Missaukee County. John Q. hairman. I perfected the organization in Missaukee l distributed literature. I did not distribute any peti- omination, but they were distributed by our organ- rips were made through the county, in addition to d some advertising which was furnished me, with o the Newberry candidacy, and those advertisements y paper. They were furnished to me by the Sena- mittee and sent to me as a newspaper man, and in- ne and paid for—$23.30.

k for $35 was for distribution of literature, and some enses in trips through the county, and different items d. Those items covered work done prior to the pri- ion—simply returned afterwards and paid for after- had correspondence with Mr. King, Mr. Newberry, n, Mr. Floyd and Mr. Hopkins. Most of the letters Mr. King. I identify the papers now shown me as received by me from the persons I have mentioned ence to the campaign.

MR. LITTLETON here offered in evidence one of the pers referred to by the witness, which was received evidence and marked "Defendant's Exhibit No. 3, and same was read to the jury as follows:

DEFENDANTS' EXHIBIT NO. 3.

'Truman H. Newberry, Detroit, Michigan.

New York City, May 23rd, 1918.

lr. Dennis:

earned of your interest in my candidacy for the Sen- ant you to know that I appreciate it very much indeed. es here will not permit of my coming to Michigan to y friends during the campaign, and I am obliged for n to leave the matter entirely to them. It is needless say that I will be deeply grateful for any efforts in .

very good wish, I remain,

Sincerely yours,

Truman H. Newberry.

le Dennis,

ity, Michigan."

S. B. RICABY, sworn on behalf of the Government, testifies as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Fort Worth, Texas. I have been with the Texas Chamber of Commerce, and also in the oil game. I was born in Hillsdale, Michigan, and have always called it my home, and was there a year and a half before going to Texas. I was there in the spring of 1918. I have known the defendant William Prideau very well, known him ever since he has been a boy. In the spring of 1918, after talking with him, I made some automobile trips at my own suggestion; I was out three or four weeks before the primary of Hillsdale County, driving about the county. I was getting signatures to the petitions for Mr. Newberry for the primary. I used my own automobile. While I was doing this work I talked to Mr. Prideau, I suppose you would call it reporting. As the petitions were signed I turned them over to Mr. Prideau. Referring to my expenses in connection with my trips, I had a tire blow out; I had luncheons and gasoline and oil and so on. I had a talk with Mr. Prideau about that after I had been working a week, and he offered to pay my expenses. He gave me altogether about $100. I think the first time he gave me $60. I bought a new tire for my automobile a little later. I had an extra one which I already had put on. Mr. Prideau paid me for that as a part of this expense. The expense for that automobile tire was $38.50. Later on he paid me somewhere about $50 or $60 more in cash. He paid me for the gasoline which I used, and for my meals. He didn't pay any other expenses; in fact I don't think it hardly covered my total expense. I think the amount that he gave me ran in excess of $100—$110, possibly $120. I am not positive of the total amount for the four or five weeks I was out. He paid me twice.

CROSS-EXAMINATION BY MR. LITTLETON:

In the conversation I had with Mr. Prideau, he said to me that he was for Mr. Newberry for United States Senator, and he asked what I thought of his candidacy. I told him that I hadn't thought of it much, but I thought he would make a very good man. Now he said, you are here home and you haven't anything particularly to do; I am getting up the petitions for Hillsdale; would you take your car and would you go out through the county and get the petitions signed in the various townships in the county; and I told him I would be very glad to

lo it. The conversation occurred about the time we had the uncheon that Mr. Prideau gave for Mr. Paul King at the Keifer Iouse, in Hillsdale, in the spring time. He gave me the peti-ions in blank and I went out in the county and I made each ownship in the county outside of the city and secured, I think t was from 25 to 30 or 40 or 50 signatures in each township. With reference to the expenses, after I had been out a week, I said to Mr. Prideau that I had had a little misfortune, etc. He said we ought to take care of those expenses for you. I told him that was all right if he wanted to do it. He said he would take care of the expense. After the primary and just before the election, Mr. William Frankhouser, a member of the regu-lar Republican County Committee, asked me to take my car and revisit the townships in behalf of the entire ticket. Mr. Prideau knew nothing about it; we never consulted or talked about it. Mr. Prideau is General Manager, as I understand it, or was at that time, of the Hillsdale Alamo Gas Engine Company.

AUGUST KELLEY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I was born at Alpena. At present I work in Lansing. I was in Alpena County in 1918, sometime in May. Since last July I have worked in the Superintendent's Department in the capitol at Lansing.

I knew the Defendant Benjamin F. Reed at that time. I received a letter from him in the spring of 1918, which I destroyed. I think it was postmarked Cheboygan. In response to this letter of Mr. Reed I went to the Newberry Senatorial Headquarters in the Ford Building in Detroit, where I talked with Mr. B. Frank Emery, who was employed there. He wanted me to go to Alpena County and circulate some petitions for Mr. Newberry and told me they would pay me $25 a week and my expenses for circulating petitions. I told him I would go, and I went probably a week after. Mr. Emery gave me the blank forms that I was going to use, at the Newberry headquarters. I left sometime in April and circulated the Newberry petitions part of April and part of May. I was in Alpena County about six weeks. I received a check from Detroit for my pay. It was sent to me probably every two weeks. I did not acknowledge receipt of it. $150 must have been paid to me in salary besides expenses consisting of board and lodging. I hired a taxi a couple of times to take me around a little bit.

I also submitted that expense to them; that came along with my pay of $25 a week. I sent the expense account down to the Newberry Senatorial Committee in Detroit and I received a check. I think they were paid at Alpena when I got through. I should judge I got altogether for circulating these petitions including expenses, a little over $200. I have forgotten how much over. I was assistant document room keeper in the Legislature last winter. I worked in a paper mill at Alpena two years ago before I went to Lansing. I have not held political positions practically ever since.

CROSS-EXAMINATION BY MR. LITTLETON:

Before I worked in the Legislature and in places where I was appointed to do public service, I worked in the Fletcher Paper Mill in Alpena. In 1910 I lost my leg. Since that time clerical work has been about all I have been able to do.

ELENOR KILFOYLE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit and am private Secretary to Mr. Ralph M. Dyar. In March 1918, I was employed as stenographer in the offices of the Newberry Estate at 1020 Ford Building in Detroit. I was employed there continuously from that time until December of the same year. I know Mr. Fred P. Smith. During the time that I was employed by the Newberry Estate, he was manager and in charge of the estate, and had an office in the suite of rooms that the estate occupied. There were five rooms in the suite. Mr. Truman H. Newberry had a private office there. For several months after I first commenced work there, and through August, the defendant Paul King came in the offices frequently, particularly in Mr. Truman Newberry's and Mr. Smith's. I saw him quite a few times in the office of Mr. Truman H. Newberry. I never saw anybody go into the private office of Mr. Truman H. Newberry with Mr. King. I have seen a stenographer, Miss Margaret Nevin, come in there occasionally. I do not remember seeing others. I know the defendant Richard Fletcher by sight only. I think he was in there one Saturday afternoon. The defendant Frederick Cody came in one day and left word with me to tell Mr. Smith that he had been there. I do not recollect that he was there at any other time. I believe I knew Mr. Hopkins at that time. I saw him in Mr. Truman Newberry's office. I answered the tele-

phone and made calls for people in the office. The original of the paper now shown me, marked Government's Exhibit No. 42, was a telegram which Mr. Smith dictated to me. After it was dictated to me, I presume it was taken in to Mr. Smith to be o.k.'d before it was sent out. That was the custom with other telegrams. Then we called the Western Union and the boy came for it. I presume Mr. Smith dictated it; the things that are shown on this telegram are what he said to me; I took it from his dictation: He said:

"Have misinformed you this morning. The date of close of regular expenses should have said August 27th. Circular work, advertising, clerical help, postage and all overhead expense will naturally continue till primary. Have written." I believe Mr. Smith, at the time I am testifying about, dictated those words to me. I do not recall whether or not he had had a telephone conversation with Mr. Newberry on that particular morning. On a few occasions I called Mr. Newberry for Mr. Smith to talk to. I did not hear those talks. During the couple months or more preceding the primary election in Michigan in 1918, Mr. Smith sent telegrams to Mr. Newberry with reference to the campaign. It was his custom for three months to dictate a telegram each evening. By Mr. Smith I mean Mr. Fred T. Smith, the defendant in this case.

CROSS-EXAMINATION BY MR. LITTLETON:

Senator Newberry was not in the office of the Newberry Estate until about a week before I left, which was the 19th of December, 1918. I think that was the first time I had seen Mr. Newberry. Mr. John Newberry was occasionally in those offices the time I was there. I believe for about a month he was there at all times, that is, he would come in the morning and be there several hours at a time, and go out again. Mr. John S. Newberry was not there when we went to the Newberry estate. I think he was out of town. I cannot tell you what particular month Mr. John Newberry was at the offices of the Newberry estate. He was there back and forth. He was there after he first went to the Navy, though I do not remember what period. It was during the summer of 1918.

WILLIAM H. YEARND, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Cadillac, Michigan, and am an attorney. I was living there and practicing law in 1918. I am now prosecuting

attorney. I had some communication with Paul King in the early part of 1918, with reference to the Newberry campaign, in the form of a letter, or letters, possibly. I think it was in the month of April, soon after that, I saw Mr. King in Detroit in the rooms used by the Newberry Campaign Committee in the Ford Building. I saw other gentlemen there, but I do not recall their names, although I think one name was Mr. Emery, although I am not sure it was B. F. Emery, one of the defendants. On that occasion there was some talk between Mr. King and myself concerning doing some work in Wexford County, looking towards the nomination of Mr. Newberry as Senator. In substance, he asked me if I was favorable towards the candidacy of Mr. Newberry for United States Senator, and I told him I was. He asked me if I was in a position to do some work for him and was willing to, and I told him I was. I think something was said about the kind of an organization that was desired, and I said something to him in substance, that it would be impossible for me to organize a committee in each voting precinct of the county, something to that effect. My recollection is that he said, "Use your own judgment" or "Proceed as you see fit," or something to that effect. That conference did not last over five or ten minutes, ten minutes, perhaps. I do not remember whether we were in a room off the main office. There was not anyone present as I recall, although people were coming in and going out. I received nothing from Mr. King that day, but either that day or a few days afterwards I got a check for $100. I am quite sure that I got that check that day, but I would not be positive. I do not know the individual I got it from. It was someone in the office, if I received it that day, but not Mr. King. I do not remember by whom the check was signed or upon what depository it was drawn. After that conference, I went to Cadillac and caused petitions to be circulated for the nomination of Mr. Newberry, and enlisted the support for Mr. Newberry of my friends and acquaintances. I think something was said to me at Detroit that day about the expenses or further money, but I am not positive about that. I later received some further money in connection with the Newberry campaign, but I am not sure I received it from anyone connected with the Detroit office. I do not know whether it was the next time or not, but I later received either a check or draft for $100, I cannot tell which. I am not sure whether a check came next, or a draft, or some money. I saw Mr. Floyd in Cadillac in connection with the Newberry campaign, I do not know just when it was, during the summer of

918. Mr. King was there at the same time. I do not know whether they were together or not, but they were in each other's company while I was with them. All of us were at the Hotel McKinnin. We had dinner. I do not recall the exact number present; I should think probably sixteen or eighteen, something like that, more or less. They were friends and supporters of Mr. Newberry. I called them together, notified them that there would be a supper, and I paid for the supper. Floyd gave me the money to pay for it, $40.00—two $20 bills. I saw Floyd once after that, I think. I do not remember whether or not he came to Cadillac again before the primary. I do not think he did; I would not be sure about it. I received $100 from Mr. Floyd during the campaign. I received no other money from any other person during the campaign other than the amounts I have already specified, which aggregate $340. I used the money I paid out for the purpose of employing boys and men to distribute Newberry literature. I do not know exactly how much I paid out in that way. I think it was in the neighborhood of $100. That amount was not used entirely for the payment of services for distributing Newberry literature. It included postage, express, telegrams, clerk hire. I do not know whether any livery expenses were included in that or not. That feed cost $36. I think I spent approximately $100 in payment of services for canvassing votes. It might have been a little bit more; it might have been a little bit less. By "canvassing votes" I mean interviewing electors for the purpose of ascertaining for whom they expected to vote. I would not exactly call it electioneering; it was for the purpose of ascertaining the sentiment and the opinion of electors. I do not think I used any of it for any other purpose, as I now recall. Mr. Floyd asked me to make a report with reference to the items of this fund that had been placed in my hands within a couple of days after the election. He said something over the telephone concerning me making a report of postage, clerk hire, express and livery, things of that kind. I think I included in the report something less than $100; I would not be positive about it. I gave an account as to how the remainder of $340 was expended, but did not as to the $40, because Mr. Floyd knew what that was. He did not say anything about including it or not including it. I do not know whether I gave any account of the remainder of the money or explained how it was expended in any statement that I rendered to Mr. Floyd or anyone else. In a letter that I wrote in after the primary, I stated about it, but I do not know whether it was written to Mr. Floyd or whether

to the Detroit office. The statement that I gave covered all the money that had been handed me. Approximately $160 of the money that had been handed to me was not expended; it might have been little more or little less. That I retained.

CROSS-EXAMINATION BY MR. LITTLETON:

I was before the Grand Jury and gave my testimony there. I was elected prosecuting attorney of Wexford County in November, 1918. I was a candidate at the same general election at which Mr. Newberry was elected Senator. I was not interested personally as a candidate in the primary election. I knew Mr. Paul King before I received letters from him. I had met him several years at state conventions. I remember having heard from him in April 1918, but whether or not that is the first time, I am unable to recall. I received several letters from him before I went to Detroit. I brought some of them with me. I have not got them now. The Government has them. I received some of them from Mr. King before I went to Detroit, and I think I received some of them after. I do not think I went to Detroit in response to any letters that I received. I did not intend to so testify. I am not sure I had done any work for Mr. Newberry before I went to Detroit, but I had expressed my preference for Mr. Newberry some time before I had heard anything from Mr. King. When I called on him at the Newberry headquarters in Detroit in the latter part of April, or maybe the first of May, I did not go there by any arrangement. He already knew that I was favorable to Mr. Newberry's candidacy. I think he wrote me once inquiring whether or not I was favorable, and I had told him already that I was. I think Mr. King asked me on that occasion to take charge of Mr. Newberry's candidacy in Wexford County. Perhaps the letters may have led to that arrangement. I was never selected Chairman by any Committee that we had in Wexford County. I assumed that position. I do not wish to be understood as testifying that before leaving the office in Detroit I received a check for $100. I am not positive whether I received that check in the office that day or whether I received it a few days after that; I received it there or a few days after that; I received it there or a few days later. My purpose in receiving the check was to apply it upon the expenses that I should incur in the campaign. On my return to Wexford County I canvassed my friends and acquaintances in the county looking toward obtaining favorable support for the candidacy of Mr. Newberry; later on caused petitions to be placed in various voting precincts and

aused literature to be distributed by myself and others; interviewed people with a view of obtaining their support for Mr. Newberry. I secured the services of other men to circulate the petitions throughout the county. I should think I engaged half a dozen men perhaps in that work. I did not form a Committee for that county; I assembled my friends, or the Newberry friends, together for the purpose of pushing the campaign. I am not sure whether the petitions were circulated before literature was distributed or not. I circulated some literature myself, sent some out to the country stores through different individuals and some by mail, some by express. I made several trips throughout the townships of the county by automobile. We had no public political meetings in my county. I engaged actively in the work, or organizing, or pushing the campaign for Senator Newberry off and on from some time in April, I think, until Primary Day. I organized the dinner at the McKinnon Hotel which I have mentioned. It was nothing more than sixteen or eighteen men gathering at the hotel and having the hotel fare. We ate our dinner there that evening. There were two or three men there from Missaukee County. I retained the $100, more or less, of the fund which I received partly for work that I did there, and partly for work that I did later. The letters now shown me were received by me in the course of the mail.

The letters referred to by the witness were here offered and received in evidence, and having been marked "Defendants' Exhibits Nos. 7 to 7-c, inclusive, Mr. Littleton read them to the jury as follows:

DEFENDANTS' EXHIBIT NO. 7.

Truman H. Newberry

For Republican Nomination United States Senator,
310 Ford Building,
Detroit, Mich.

State Committee.

A. A. Templeton,
General Chairman.

Paul H. King,
Chairman Executive Committee.

Charles A. Floyd,
Secretary.

H. A. Hopkins,
Director of Publicity.

April 11, 1918.

Mr. Wm. H. Yearnd,
Cadillac, Michigan.

My dear Mr. Yearnd:

The friends of Truman H. Newberry are, as you know, making an energetic effort in behalf of his candidacy for the United States Senate, and, as members of his Committee we are hoping that we may have your co-operation.

With regard to Mr. Newberry's qualifications for the office, I feel that it is not necessary for me to discuss them at length. You are doubtless already familiar with them. One of the able men of our state, a man of exceptional business ability who has already proved his worth as Secretary of the Navy under President Roosevelt, he is now giving efficient service to the country as a Commander in the Third Naval District, which includes the port of New York and the Brooklyn Navy Yard. With his experience in our foreign affairs, and his close touch with conditions in Michigan, he is the kind of a man we ought to have in the Senate at this time.

As his duties require his constant attention, he cannot take part, personally, in a campaign, which is entirely in charge of his friends. I trust that you may be in a position to give him your support, and will appreciate hearing from you and having you make any suggestions that may occur to you.

With best wishes, I remain

Sincerely yours,

PAUL H. KING.

DEFENDANTS' EXHIBIT NO. 7-a.

(Same Heading)

April 16, 1918.

Hon. William H. Yearnd,
Attorney at Law,
Cadillac, Michigan.

My dear Mr. Yearnd:

I am very glad to receive your letter of the 13th and to know that you feel as you do toward Mr. Newberry's candidacy for the Senate. He is certainly a splendid man for the place, and I am confident that you will never regret anything you may say or do in his behalf.

I am interested in what you say about the situation in the county and wish to thank you very much for the information.

There is no question that you can be of the greatest assistance there and I assure you that we will all appreciate your active co-operation. I shall be glad to hear from you frequently.

With kind personal regards, I remain

Sincerely yours,

PAUL H. KING.

DEFENDANTS' EXHIBIT NO. 7-b.

(The Same Heading)

July 16, 1918.

Mr. W. H. Yearnd,
Cadillac, Michigan.

My dear Mr. Yearnd:

I have just returned from a trip through Monroe, Lenawee, Hillsdale, Branch and St. Joseph counties, where I conferred with many active republicans. I am pleased to report that I found very little sentiment for Mr. Ford in these counties. As a matter of fact, with the exception of Monroe and Branch, he did not carry them in the presidential preference primary, and in each of those two counties his majority was less than one hundred votes. There is, of course, no reason why sentiment should change in his favor; in fact there is every reason to look for a much smaller vote than he then received.

I found practically no support for Mr. Osborn in many of the counties. Occasionally I did strike a man who felt inclined toward him, but they were few and far between. In the course of my trip, I met one man who said he was for Senator Smith.

The situation in these counties is certainly good from our standpoint.

I am receiving good reports from the Upper Peninsula from the Thumb counties, and from Western Michigan. I expect, of course, that Senator Smith's candidacy will affect a few of our friends in the western part of the state, but I do not look for many changes. Some, of course, are under personal obligations and feel that they must be for him, which is perfectly right and proper, of course, although it does mean a sacrifice on their part.

Conditions in Detroit are very satisfactory. It was at first thought that the working men might be largely influenced by Mr. Ford's candidacy, but investigation shows that this is not the case. He will undoubtedly get some votes in Detroit, but we shall carry the county by a good majority.

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Will you kindly send to me, so that they will reach me by the 25th of this month, any petitions which may still be out, as we wish to file them on that date.

With kind personal regards, I remain,

Sincerely yours,

PAUL H. KING.

DEFENDANTS' EXHIBIT NO. 7-c.

(The Same Heading)

July 25, 1918.

Mr. William Yearnd,
Cadillac, Michigan.

My dear Mr. Yearnd:

As friends of Truman H. Newberry, we are, as you know, making an active effort in behalf of his candidacy for the United States Senate, and are hoping that we may have your co-operation.

Concerning Mr. Newberry's qualifications for the office, I feel that it is not necessary for me to dwell on them at length. You are doubtless already familiar with them. He is, in brief, one of the able men of our state, a man of exceptional business ability,—one who has already proved his worth as President Roosevelt's Secretary of the Navy, and is now giving efficient service to the country as a commander in the Third Naval District, which includes the port of New York and the Brooklyn Navy Yard. He is, we think, just the kind of a man we ought to have in the Senate at this time, when so many questions are arising and will arise within the near future of vital concern to the country.

Inasmuch as his duties require his constant attention, and he cannot take part, personally, in a campaign, he is leaving the matter entirely in the hands of his friends. I trust that you may become one of these, if you are not already, and that he may have your support.

I will appreciate hearing from you and having you give me any suggestions that may occur to you.

With all good wishes, I remain,

Sincerely yours,

PAUL H. KING.

DEFENDANTS' EXHIBIT NO. 7-d.

(Telegram)

x58 DE F 45

Detroit, Michigan, 4 p. m. August 10.

W. H. Yearnd,
Cadillac, Michigan

Please wire us Monday morning names of two very prominent farmers in your county who are recognized leaders in agriculture who will authorize use of their names in newspapers endorsing candidacy of Commander Newberry. You can state N. P. Hull, Lansing, heads the list.

PAUL H. KING.

DEFENDANTS' EXHIBIT NO. 7-e.

(Same Heading)

September 2, 1918.

Mr. W. H. Yearnd,
Cadillac, Michigan.

My dear Mr. Yearnd:

This is the first opportunity I have had to write you since the primary. As you may imagine, things have been coming pretty thick and fast here following the victory of Tuesday. It certainly was some victory, wasn't it? We are all very happy over it and wish to extend to you our congratulations for your part in it. It never could have been possible without the active, earnest, co-operation of such good friends as yourself, and I wish to express to you again our hearty thanks. It has been a pleasure to work with you and I hope our future associations may continue to be close. If there is any way I can be of service to you at any time, I hope you will not fail to let me know.

The next thing is the election and I am glad to feel that we may have your continued support there. The State Central Committee will, of course, take charge of the campaign from now on, and I am going to help all I can in an advisory way and will be grateful for your suggestions.

Hoping to see you soon and thank you personally for all that you have done, I remain, with kindest regards.

Sincerely yours,

PAUL H. KING."

THE WITNESS (continuing): I received the letter now shown me from Mr. Floyd. It is dated September 23, 1918, and bears the same heading as the exhibits just read.

The letter referred to by the witness was here offered and received in evidence and marked Defendant's Exhibit No. 8; and read to the jury as follows:

DEFENDANTS' EXHIBIT NO. 8.

(The same Heading)

September 20th, 1918.

Mr. W. H. Yearnd,
Cadillac, Michigan.

My dear Mr. Yearnd:—

I have just received your letter of the 11th with regard to your County Committee and am very glad to note that you have been chosen chairman, because I feel sure, under your direction, Wexford County will come through in great shape.

I am looking forward to seeing you at the Grand Rapids convention.

With kind regards, I remain,

Very truly yours,

CHAS. A. FLOYD."

THE WITNESS (continuing): I received the letter now shown me.

The letter referred to by the witness was here offered and received in evidence and marked Defendants' Exhibit No. 9 and read to the jury as follows:—

DEFENDANTS' EXHIBIT NO. 9.

Truman H. Newberry, Detroit, Michigan.

New York City, August 12, 1918.

My dear Mr. Yearnd:

Although I have already once written you, I cannot refrain from dropping you just another little line to tell you how much I appreciate all the splendid things you are doing in behalf of my candidacy for the United States Senate.

It is impossible for me, of course, to take any part in the campaign myself, and I want you to know that I am very grateful for your interest and helpfulness.

With kind regards, I remain,

Sincerely yours,

TRUMAN H. NEWBERRY.

Mr. Wm. H. Yearnd,
Cadillac, Mich.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

I was in Detroit to see Mr. King only once during the campaign. I do not know when I received the $100 that I kept. It

was that money I received sometime during the summer; I do not know just which remittance it was. There was no conversation between Mr. Floyd and myself, or between Mr. King and myself, as to my doing some subsequent work because of the money that had been paid me.

FRANK M. WAKEMAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Paw Paw, Michigan, and am the editor and publisher of a newspaper. I had lived in Paw Paw about 15 years, and was there during the primary of 1918. I know the defendants Charles Floyd and L. L. Thompson. They called on me together at my office in Paw Paw in the spring of 1918. We had a short conversation in which they asked me how I felt about the Newberry matter, and expressed a wish that I might be able to look after his campaign in that county. I told them it would be impossible for me to do it, for several reasons; one was that I did not have the time, another was that if I was going to support Mr. Newberry, it would not be good politics for me to do so. I suggested that they go and see the defendant, Mr. Gladstone Beattie, and they said they would go and call on him. They left my office and returned about an hour latter. They then told me that they had Mr. Beattie's promise. I know that Mr. Beattie was actively supporting Mr. Newberry during the campaign. I made application to the Newberry Committee for some money for a Mr. Johnson of Lawton. It was somewhere between twenty and thirty dollars. If the money came directly to me, I have no recollection of it; I cannot say it did or did not; that part of it has left my mind. I carried a limited amount of the advertising of the Newberry campaign. I ran it, say, six weeks, possibly a little more than that. It was plate service. I think the plate came from the Detroit office; I cannot say, though, about that. I cannot say definitely how much money I received for the advertising I carried; I would say it would be under $40. My statements went to the Newberry Senatorial Committee at Detroit, and the check came from there.

CLAUDE HAMILTON, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Grand Rapids. I am Vice-President of the Michigan Trust Company. During the year 1918 I had, indirectly, some-

thing to do with a club known as the Gold Star Club. I conferred about it with the whole Kent County Committee, but particularly with Mr. O'Brien and John Blodgett. The whole Committee, of which I was Chairman, was there when it was first mentioned. I had nothing to do, directly, with the sending out of letters, or the creating of any expense in connection with the Gold Star Club. Later I was told what the expense of the Club was; I do not remember by whom. After that I had some correspondence with the defendant, Truman H. Newberry, with reference to the Gold Star Club. The paper marked Government Exhibit No. 44 now shown me is a carbon copy of a letter I wrote to Mr. Newberry, and the other paper marked Government Exhibit No. 45 now shown me is the letter I received in reply to the letter I have just identified, Government's Exhibit No. 44.

Government Exhibits Nos. 44 and 45 were here offered in evidence.

MR. MURFIN objected to their admission on the ground that they showed on their face that the correspondence was had in September, 1919, nearly a year after the alleged conspiracy charged.

THE COURT: Depends on whether they refer to anything involved in this case.

On Mr. Dailey's statement that the letters referred to expenditures for campaign, the Court overruled the objection, to which ruling Mr. Murfin duly excepted.

MR. DAILEY then read Government Exhibits Nos. 44 and 45 to the jury as follows:

GOVERNMENT EXHIBIT NO. 44.

Sept. 15, 1919.

Hon. Truman H. Newberry,
Washington, D. C.

My dear Senator:—

I hesitate to write you about a matter, but it seems necessary for me to do so. I expected you would be in Grand Rapids long before this, at which time I intended to speak to you. In fact, you told me soon after your election that you were going to take the time to pay us a visit out this way. During the campaign a year ago our estimated budget was all provided for. I acted as Chairman of the Committee, which included County, Legislative, Congressional and Senatorial Committees. As the fight grew fast and furious we did not stop at the limitations of our

budget and exceeded it. I have had to put up the deficit, and it is in regard to the distinctive senatorial campaign that I write you. We formed the Gold Star Club, sending out a letter to each soldier's family in the county. This letter was signed by members who had lost sons or relatives in the war. It had a tremendous influence on results and was exclusively for the Senatorial Campaign. We therefore feel that it should be made up by them, the cost of above, which as I stated was distinctively for Senatorial Campaign, was $330.00, and I would be very glad if you would see that this was refunded. In addition to my other duties, I was assisting Mr. Blodgett in raising some money for the State Central Committee and the State Central Committee did not make any contribution to this County. Mr. Blodgett is acquainted with the above facts, as is also Congressman Mapes, and I would be very glad to have you verify it from them. Ambassador O'Brien, who is now in Washington, is also familiar with this matter; in fact, he served on the subcommittee which put this through.

Trusting that I will hear from you at an early date, I am,

Yours very truly,

GOVERNMENT EXHIBIT NO. 45.

September 18th, 1919.

My dear Mr. Hamilton:—

In reply to your letter of September 15th, I think I realize fully the situation you describe. I wish very much there was some way at this time in which I could relieve the situation, but it seems advisable that I should not obligate myself for any of the expenses of the election campaign, in view of the fact that I subscribed to the State Central Committee all that I could subscribe under the law. When Ambassador O'Brien reaches Washington, I will consult with him on this subject. I am hopeful that some friend will be found who will make up the $330.00 deficit to which you refer. Of course, I would gladly do it myself if the law permitted. I want you to know how deeply appreciative I am of all that you have done, and particularly do I appreciate the work done by the Gold Star Club concerning which I have previously written most of the members.

With kind regards, I remain,

Sincerely yours,

TRUMAN H. NEWBERRY.

THE WITNESS (continuing): I wrote another letter in reply to Government Exhibit No. 45, of which the paper now

shown me, marked "Government's Exhibit No. 46" is a carbon copy.

MR. DAILEY offered the paper in evidence.

MR. MURFIN made the same objection as that interposed to the admission of Government Exhibits Nos. 44 and 45, which objection being overruled, Mr. Murfin duly excepted.

Mr. Dailey then read the letter to the jury as follows:

GOVERNMENT EXHIBIT NO. 46.

September 22nd, 1919.

Hon. Truman H. Newberry,
United States Senate,
Washington, D. C.

My dear Senator:—

Your letter of September 18th is received. I understand that Mr. O'Brien will be here tomorrow, so it is very likely that you did not see him. I understand the circumstances, and if you wish to make a contribution of $350.00 to the Kent County Republican Committee, I would be glad to have you do so.

Yours very truly,

Within a week after I had signed and mailed Government Exhibit No. 46, I received a check for $350.00 and a voucher from Detroit, I think. The check was signed by the Newberry Estate, I think. That is, as I remember it. I deposited the check to make up the deficit. I cashed it. I did not reimburse myself for that $350. There was a $500 deficit composed of a lot of items, bills that I had to pay. When the check for $350 came, I cashed it to make up a deficit. The $350 was transferred to me; I had paid the deficit.

CROSS-EXAMINATION BY MR. MURFIN:

The paper now shown me, marked Defendants' Exhibit No. 10, is the receipt which I gave in connection with the check for the contribution to the Kent County Republican Committee in 1919.

The paper referred to was here offered and read in evidence, as follows:

DEFENDANTS' EXHIBIT NO. 10.

Kent County Republican Committee,
Grand Rapids, Michigan.

For amount of invoice attached, a contribution to Kent County Republican Committee, $350. Please date, sign and return this voucher promptly, without alterations.

Received October 2nd, 1919, of Truman H. Newberry the sum of three hundred fifty and no one-hundredths dollars, in full of the above amount.

The Kent County Republican Committee,
By Floyd Hamilton, Chairman.

THE WITNESS (continuing): I do not know who the check was signed by. We received no money from Truman H. Newberry during 1918 after our county committee was organized, and we were handling the election. I have a list of the contributors who paid the expenses of the campaign. The paper now shown me marked Defendants' Exhibit No. 11, is a list of the money that came to me, and shows the contributions that came to me for the running of the campaign of 1918, of which I was chairman of the committee.

MR. MURFIN having offered the paper referred to by the witness in evidence, Mr. Dailey, for the Government, objected for the reason it was not cross-examination of any matter inquired about, and was irrelevant and immaterial.

THE COURT sustained the objection, and the defendants duly excepted.

BY MR. MURFIN:

The Gold Star Club, so-called, was composed of parents and relatives who had lost sons in the service. In the campaign this organization sent out a letter to about 10,000 soldiers' families in the county. T. J. O'Brien, of Grand Rapids, prepared the letter.

MR. MURFIN subsequently offered in evidence the check for $350 regarding which the witness had testified, and the same was received and marked "Defendants' Exhibit No. 14."

DEFENDANTS' EXHIBIT NO. 14.

MR. MURFIN (reading): The check, across the end of it, bears the printed words, "Truman H. Newberry." The check is numbered, "A-3219." It is dated, "Detroit, Michigan, October 1st, 1919." "Pay to the order of Claud Hamilton, 4th Vice President, Kent County Republican Committee, $350." Three hundred and fifty is printed. Signed, "Truman H. Newberry, by Fred Smith, Attorney-in-fact." It is endorsed, "Pay to the Kent State Bank, Grand Rapids, Michigan, or order, Claud Hamilton ———" ——— rubber stamp. Then, in writing, appears the language, "Claud Hamilton, 4th V. P. Republican County Committee."

I will state to the Court and jury that Mr. Dailey agreed with me that if Mr. Hamilton were here, he would explain the use of the term, "Fourth Vice-President." He was chairman of the County Committee, and Fourth Vice-President.

JOHN DEMPSEY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit, Michigan, where I am in the real estate business. At the primary of 1918 I was employed in the Newberry Senatorial Headquarters. Mr. B. F. Emery employed me at a salary of 50 cents an hour. I started on overtime work, but after a few days I had regular employment at $25 a week from May, about, on through the campaign. I stayed in that same suite of offices until after the election. My salary was increased, after I was there a while, from $25 to $40 a week. Then, about a week before the primary closed, from $40 to $50. I had charge of the circulation work. I also had charge of the girls and others who were employed at that time. I was acquainted with some of the field agents, just met them offhand. Mr. Corliss and Mr. Welsh, I believe, were the ones I met. I do not recall any others in particular. I know Mr. Floyd and have met Mr. McGregor. I do not believe I ever met Rolla E. Prescott, but I had correspondence with him. Literature was sent to him. I met Mr. James Davis, but I do not recall meeting Judge Harris, although I corresponded with him in the latter part of the campaign and sent him batches of literature. As I recall it, my salary was always paid in cash, generally by Mr. Emery, sometimes by Mr. Harry Turner. Mr. Emery and Mr. Turner kept money in small amounts in the office itself. At times I obtained money from them for stamps, in sums generally around $50 or $75 or $100, along in there. When I asked for money for stamps, they gave me that much.

CROSS-EXAMINATION BY MR. LITTLETON:

As I remember I went to work in May, 1918, but I cannot say positively that it was in May, and continued from May to the end of the campaign. After the primary election, the Republican State Central Committee took charge of the headquarters and I continued with them.

JOHN E. MEIER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I was living in Manistee and employed as a barber in 1918. I knew August Field, of Manistee.

Q. Have you had any conversation with him about acting as a member of any committee, political committee? Just tell what was said.

MR. LITTLETON: That is objected to, if Your Honor pleases, on the ground that it is not binding upon anybody on trial in connection with this prosecution. Mr. Field is not on trial.

THE COURT: That is very true, for the reason he has pleaded; you may answer.

MR. LITTLETON: I take an exception to the ruling, also take an exception to the statement of Your Honor with reference to the action of Mr. Field.

A. Mr. Field asked me to act as local secretary for the Newberry campaign, and I did so. I first declined, then he said, "You better accept it, to help Paul King along." I was acquainted with Mr. King. When I accepted the position, I told Mr. Field that I could not do any corresponding, as I did not have time, and he said he would attend to all the correspondence. I got a few other people to circulate nominating petitions. I did not circulate them myself. Mr. Field told me that he would see to it that those doing any work will get their pay. I got $15 from him the first time, then $70 the next time. I paid it all out. I paid out $30 for to get petitions, $10 for delivering literature and $45, all told, for auto hire. The $10 paid for delivering literature was paid to my son. Of the $45 for auto hire, $25 was paid to Joe Bower, who had an auto, and $20 was to myself for my auto which I sent out three days, and Bower made about three trips. The $30 for circulating petitions was paid to men by the name of Weaver, Sibley, Chickey, Smith, Cometoy and Ericson. I could not exactly say how long they worked. They all brought in petitions, signed. Some of them had 25 or 30 signers. They was to get $5 for their petitions, no matter how many names they got, and I paid them $5 for each of them.

LEO A. BARRY, being sworn as a witness of behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Baraga County, which is in the Upper Peninsula, about three years. I know the defendant James F. McGregor when I see him. During the spring or summer of 1918

I saw him in the Upper Peninsula, first at Munising, afterwards at the Beach Inn Hotel in Munising. I think I seen him in Houghton later, but I am not sure about that. I do not know the exact month I saw him in Munising, but it was about a week or two weeks previous to the primary—something like that. I heard him talking to Mr. Jennings, the Mayor of Munising, on the porch of the Beach Inn Hotel. They came out there and began talking about getting out the vote and working for primary day in regard to working on primary day, rather. Mr. McGregor, I guess, told him that, as he was the county chairman, he thought that he was the proper man to come and talk to, and that he should take it up with his local chairman and arrange that they should have autos, and workers out on primary day. He also said that Newberry Central Committee had made an apportionment of money to be spent on primary day all over the state, and that Alger County had been allotted $300. He asked Mr. Jennings to take care of the expenses of this county chairman, and that he would reimburse them. He asked Mr. Jennings if that would be satisfactory. Mr. Jennings said it would. They may have said some other things, but as I understood it, the last that he said, he got up, as if in bidding Mr. Jennings goodbye, and said, that he hoped Alger County would make a nice showing for Mr. Newberry on primary day. I seen him in Munising once afterwards at the same hotel. He walked in from a room other than what we was in, we were sitting in the room, several of us, where the desk is in the Beach Inn Hotel, he walked in from a larger room, a parlor and he spoke as if addressing George Harding. He says, George, he says, "I am going down to New York Friday night to see the Commodore." George Harding said to him, "Well, Jim, get another $176,000." McGregor says, "We are going to get a real barrel this time."

CROSS-EXAMINATION BY MR. LITTLETON:

I buy and sell timber lands. I have been doing nothing else about a year and a half. Before that I worked for the State Tax Commission. I was born in Michigan, but was out of the State for about eight years. I lived in Chicago, Montana, Washington, British Columbia. During that time I worked in offices, drove horses, and drove anything, done anything that was necessary. I was working for the Tax Commission in the spring of 1918, principally in Alger and Luce Counties. I was down in the southern part of the state, I think, for a week or so. So far as the campaign of 1918 is concerned, I got into, I suppose, lots of arguments, like other people, but I did not work at the polls

or anything like that for anybody. I went about and talked for a particular candidate. I was opposed to Mr. Newberry; to a certain extent I was opposed. I was not what you might say excited about this other candidate. I mean I was not very intense in my feelings or my work for him. I think I talked to Mr. McGregor a few moments before I heard him talking to Mr. Jennings. I think that I am sure, but I ain't positive. I had not been introduced to Mr. McGregor; I never was. I did not know Mr. McGregor was a Newberry man. I had been told that they thought that he was a Newberry man. On the occasion when I heard Mr. McGregor talking to Mr. Jennings, they were not talking to me. I think they were seated just west of the steps on the porch of the Beach Inn Hotel, and I was just to the east of the steps—possibly twenty feet away from them. As I remember it, there was nobody else on the porch except Mr. McGregor, Mr. Jennings and myself. I could not help but hear what they were saying. I think I heard nearly all that Mr. McGregor said. They engaged in this conversation but a very few minutes. I repeated that conversation the next day, I think about, to Jerry Monaghan, who lives in Alpena, Michigan. I did not repeat everything that McGregor said to Jennings, and at different times I probably used it. I would get into an argument. They would say Newberry did not have no money, was not spending any. I would just say, "Well, I know of $300 being spent." I quoted that conversation in my argument, but not often. Necessarily, I was very careful not to quote it around Munising. I made a statement of it at the Grand Jury. Before I went before the Grand Jury, I made a statement of it before two Department of Justice men named Houk and Green. I met Houk in Houghton.

Before I went before the Grand Jury, I think I repeated it down here to Mr. Dailey. The next time I saw Mr. Green was some time between the primary and the election, and after the publication of the report of the Newberry committee as to the amount of contributions and expenditures. He was in the lobby of the Beach Inn Hotel, Munising. Besides George Harding and myself, I think there were others present, but I do not remember how many. Mr. McGregor came in from the parlor, which was larger than the lobby. I did not speak to Mr. McGregor, nor he to me. We were not well enough acquainted to speak to each other. Mr. McGregor just walked in the room and addressed Mr. Harding as "George." He said, "George, I am going down to New York Friday night to see the Commodore." George replied, saying, "Jim, get another $176,000.00." And then McGregor replied, "We are going to get a real barrel this

time." Whoever was in that room at that time could hear this statement, if they wasn't deaf. I do not know whether McGregor knew I was opposed to Newberry. I suppose that was his business to know them things. I suppose George Harding knew I was opposed to Newberry. I would not say that everybody in that room, whoever they were, knew that I was opposed to Newberry. I do not just remember when I first repeated that conversation. I thought it was a pretty hard thing to say. I would take it from the way he spoke that Mr. McGregor was seriously announcing in that room to whoever might hear that he was going down to New York to get a bigger barrel. I know Mr. Harding was for Mr. Newberry a part of the campaign, during the entire campaign. George Harding nominally is a Democrat, but he was wearing a Newberry button at the later part of the campaign. I first reported the incident to Mr. Houk at the same time I reported the other conversation.

ALEX. W. BISSLAND, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Mio, Oscoda County. I am County Clerk and Register of Deeds, and was acting in that position in 1918. I was chairman of the Newberry organization of Oscoda County preceding the primary. I think Mr. Prescott was the first person who spoke to me about acting in that capacity. Mr. Goodwin was with him. They told me they were organizing a Newberry machine and asked if I would accept the chairmanship. I don't recollect that they told me how extensive the organization was. I told them I had so much to do I thought it would be absolutely impossible. I was in favor of Mr. Newberry, but I couldn't see where I could take up the time, and I am pretty satisfied circuit court was in session, and that I was called out of the court room. This conversation occurred on the second floor in the court house. They told me the expenditures would be taken care of. I incurred some expenses in the campaign for postage, furnishing a list of the voters, addressing envelopes, and matters of a clerical nature. I may have employed two or three automobiles for use on election day, but I am not positive on that. I am not positive on the amount of money I received. I rendered to Mr. King an itemized statement of all the expenses that I incurred. I sent my statement to Detroit and afterwards received a remittance. I think it was from the defendant, Charles A. Floyd; I am not sure. I do not remember where the remittance was sent from; I remember that the communication

that enclosed the remittance came from Grand Rapids. I stated $15 or $20; it may have been more than that. If I was positive whether or not I employed the two or three automobiles referred to, I might state it was $50.

CROSS-EXAMINATION BY MR. LITTLETON:

I was introduced to Mr. Prescott by Mr. Goodwin, whom I knew for possibly two years before. He lives in my town. Mr. Prescott did not. Mr. Goodwin was the editor of the Telegram News, a newspaper. The conversation was between the three of us. I think it was Mr. Prescott who told me that my expenses would be paid, and it was Mr. Prescott who told me that they wanted to organize the county. He said Mr. Goodwin had agreed to act as Secretary, and he wished me to act as chairman. That is the conversation as I recall it, with generalities thrown in. I had correspondence with Mr. King after Mr. Prescott called on me.

HERBERT J. RUSHTON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Escanaba, Delta County, Michigan. I am an attorney-at-law. I have lived in the State of Michigan practically all my life, except three years that I was in the State of Washington. I believe I came to Delta County in 1908. I have known the defendant Roger Andrews ten or eleven years. I saw him at Escanaba during the primary campaign of 1918. The first time I met him, I think it was at the Escanaba National Bank, where I had a short conversation with him. He said that he had been around the 30th Senatorial District, in which he and I lived, and it was the concensus of the people that I become candidate for the State Senate. Mr. Andrews' home was in Menominee at that time. I had a later conversation with him in my office the same day or a few days later. He then said that they wanted me to become a candidate, and that I would have the support of his two papers; that it would not cost me anything, and that he was very sure that I would have the support of all the papers throughout the district; that he thought, if I would come out and announce myself, it would head off Mr. W. A. Lamire, who was also a candidate. Mr. Andrews operates the "Herald Leader" and the "Cloverland," formerly the "Northwestern" Magazine, both of which are published at Menominee. He told me that he was very anxious to see me run,

and we had quite a talk about it. I told him that I could not hardly afford to leave my business for what salary there was in the State Senate, and he said he had no axe to grind; that he simply wanted to see me go to the Senate, and he thought the majority of the people that he had talked to had expressed their ideas that I was the proper man to go. He said, "Now, if you make up your mind to run, you send your announcement to me at Menominee," and he would send it to the Soo News; that is both ends of the district, and, "We will start out there." And he said, "That will keep out anybody else." Later I sent the announcement he had requested either to Mr. Andrews or the Herald Leader, I cannot say for sure. It was not published in Mr. Andrews' paper at that time. The other papers in the district all published it. Later he called me up at the Delta Hotel at Escanaba one morning, and he said, "This is Andrews talking, and I would like to see you before I leave town, and couldn't you step over to the hotel?" I said I could. So I went over and he said, "Now, we will take the elevator and go up to my room." So I went up to his room with him. When we got up there, he said, "Now, I am going to lay my cards on the table face up. You have got to support Truman H. Newberry for the United States Senate." "Well," I said, "I cannot do that very well because I am supporting Chase Osborn and he is in my district. I could not very well go against him, and besides, I feel that I should support him." "Well," he said, "are you in any way obligated to him?" I said, "Not in the least, except that I told him that any little thing I could do for him I would be glad to do it; that I was for anybody in the Upper Peninsula of Michigan that was competent;" and he said, "Well, you cannot have the support of my paper unless you support Newberry. I cannot do anything for you." "Well," I said, "there is nothing doing. I told Mr. Osborn that I was going to do all I could for him. I do not intend to open up an active campaign; I am not head of this campaign or anything, but I told the man that I would do what I could for him, and I am going to do it, and I will not agree to support Mr. Newberry. I have nothing against him, but I have got my own friends to take care of." Mr. Andrews did not support me; he supported Dr. LaMire, who was the man that he had mentioned to me as the man he wanted to keep out of the race by bringing me in. In this conversation that I have just spoken of, I said, "I will tell you, I wish you had said something about this before I announced myself because I was not looking for this office very strong, and it was only at your solicitation and a few others that I became a candidate. If you had told

me there was any string tied to this thing, I would not have become a candidate." And he said, "Well, that is politics."

MR. LITTLETON: I move to strike from the record the testimony of the witness Rushton, on the ground that it is not competent and has no bearing on the issues involved in the charge; not relative to any of the expenses involved in the charge of conspiracy.

THE COURT: The motion will be denied.

MR. LITTLETON: An exception.

GEORGE R. MURRAY, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Muskegon, Michigan, where I have resided about 15 years this time. I am the President of the Railway Mens' Relief Association, whose headquarters are at Muskegon. I am in charge of an office there. We publish a monthly magazine in connection with our work, of which I am the editor. I am acquainted with the defendants Paul H. King and Charles Floyd. In the spring of 1918 I saw Mr. King and Mr. Floyd together at the headquarters of this Relief Association in Muskegon, where I had a conversation with them. They stated they were there in behalf of Mr. Newberry's candidacy for United States Senator, and they asked me if I was going to support Mr. Newberry, and I told them yes. They asked me if there was anything I could do to help to get the railroad men lined up for him, and I assured them I would give them my support. It was kind of a hurried up trip and they shook hands with me and bid me goodbye at that time as I remember. Before leaving they said anything I could do along the line, they would take care of me. Later I was given $300 for attending meetings, and then incidental expenses such as postage and mailing out the Relief Signals. This $300 included the incidental expenses. It came from the Newberry Senatorial Headquarters at Grand Rapids. It was, at least in part, for attending meetings of railroad men of this Relief Association, at which I made addresses in behalf of Mr. Newberry. This Railroad Men's Relief Association is a sort of sick and accident and funeral benefit insurance order. Allen K. Moore came to Muskegon perhaps two weeks after King and Floyd were there. Mr. Moore stated that he was going to look after the railroad men in the state, and he come over to see if I could direct them to any of our local divisions, and when he come there I took out our directory, that is, in our official

organ, and told him there was the officers, that they were all good fellows, and I guessed he could find enough to see at all the terminals in the state, if he followed that. Mr. Moore asked me if I would give him a letter of introduction to some of the railroad men. I did not give him a letter. I had not made any speeches or attended any meetings on behalf of Mr. Newberry prior to the time Mr. Moore called upon me. I commenced doing that shortly after Mr. Moore was there. I went alone to the first meeting, and later Mr. Moore made a trip with me, I think in all I was in thirty-three meetings, and Mr. Moore was in twelve of them. Mr. Moore also made addresses to these locals in behalf of Mr. Newberry. As a rule Mr. Moore paid the expenses of these trips while he was with me through courtesy; later when I went alone I paid my own expenses, and was reimbursed afterwards. This come out of that $300.00 check that was mailed to me from Grand Rapids. I got no money from Floyd beside the $300.00. $400.00 was paid to the magazine that we published. That went into the Association funds. It came through the Newberry Senatorial Campaign Committee. We sent all our statements in to Grand Rapids, but as I understood it $150.00 come direct from Grand Rapids, and $250.00 from Detroit. In the month of July a display advertisement was published in this Railway Men's Relief Magazine, and then in the month of August there was a personal letter direct from me to the Railroad men. There were no other display advertisements beside the one month of July. I think our bill for the one display in July was $150.00. In August we published an article about Mr. Newberry's campaign—not an advertisement, just an article—which I wrote. 20,000 extra copies were ordered through the Grand Rapids office. No money was received by or through me with the exception of the $300.00, and then the $400.00, and my expense at the time I was with Mr. Moore.

CROSS-EXAMINATION BY MR. LITTLETON:

The Railway Men's Relief Association extends over the state of Michigan and has its head office at Muskegon. My brother, J. H. Murray, is Secretary-Treasurer of Division No. 31 which is one of the three divisions we have in Detroit. I had a brother in Port Huron who was Vice President of Division No. 18 during the 1918 campaign, but he died recently. I think the membership of the Railway Men's Relief Association in Michigan at that time was between 10,000 and 12,000. I have known Mr. Paul King seven or eight years and Mr. Floyd about five years. I was in the railroad business originally. I met Mr. King when he

was receiver of the Pere Marquette. I also met Mr. Floyd in the railroad line. Before Mr. King and Mr. Floyd came to see me in the spring of 1918 I had already expressed my preference in reference to the choice for United States Senator. I was for Mr. Newberry. Referring to my testimony on my direct examination to the effect that Mr. King and Mr. Floyd spoke to me about taking care of me, or taking care of whatever I did, I expect that when Mr. King and Mr. Floyd were there, being two railroad officials, that besides a patriotic purpose I had a selfish purpose. At that time I was petitioning the employes of the Michigan Central Railroad to get the Company's co-operation, and I was very anxious to get Mr. King interested, to help me put that before the management, from an official standpoint.

After we got into the campaign I arranged to attend all of those 33 meetings which were held at the different terminals throughout the lower part of the state. I was on the trip from about the middle of June, as I remember, until the 26th of August. The meetings were held promiscuously through that time. I don't know whether you would call what was running in our paper advertisements of the Newberry candidacy or what. It was run in our reading matter. No absolutely plain advertisements of Mr. Newberry's candidacy were running. Here are the advertisements and there is my letter (showing papers to counsel). This first paper I have shown is the July number of the Relief Signal. The part which I was running with reference to the Newberry candidacy in that number was the story on the third page. That was in the papers at the time I was making my trip to these 33 meetings throughout the state. It wouldn't get out until the 1st of July, and I went out in June. That was a sample of the 20,000 copies that were taken by the Newberry headquarters at Grand Rapids,—10,000 of the July issue and 10,000 of the August issue which I have also produced.

The papers referred to by the witness were here marked Defendants' Exhibits Nos. 12 and 13 for identification.

THE WITNESS (continuing): These two copies now known as Defendants' Exhibits Nos. 12 and 13 for identification, are two copies of the extra copies of our monthly paper for the months of July and August, 1918, that we put out. In the regular number, we had several advertisements, and when we run the extra copies, we just simply cut out the other advertisements and ran this. I mean that Exhibits 12 and 13 for identification were the two of which 10,000 each were furnished to the Grand Rapids headquarters and that these were extra issues. In addition to these, we had a regular issue of the Relief Signal, but in

these there appeared no advertisements with reference to the Newberry candidacy. That (indicating Defendants' Exhibits Nos. 12 and 13 for identification) is all there is in reference to the Newberry candidacy. They bought the 20,000 extra copies for $400. I received $150.00 and later I received a campaign check for $250.00 from the regular campaign committee at Detroit. When they ordered the extra 10,000 copies, we had advertisements from the Merchants & Manufacturers, and when those went out, we just simply took and eliminated the advertisements, and sent those out without the other advertisements. These extra ones which we sent out for the use of the headquarters in the Newberry candidacy, were the ones from which we had eliminated the regular advertisements, and they became, more or less, a special issue for July and August. We ran no advertisements at all in the regular issue of our paper about the Newberry candidacy, so that these two papers, Defendants' Exhibits 12 and 13 for identification, contain all that was published with reference to the Newberry candidacy in our newspaper.

MR. LITTLETON here offered in evidence defendants' Exhibits Nos. 12 and 13 for identification, which were received and read to the jury, as follows:

DEFENDANTS' EXHIBIT NO. 12.

"THE RELIEF SIGNAL

Muskegon, Michigan, July, 1918. Published Monthly.

COMMANDER TRUMAN H. NEWBERRY, U. S. NAVY.

A Typical American.

Commander Truman H. Newberry, U. S. Navy

is the head of a family which has registered 100 percent American in the present great war with Germany. Himself giving up instantly his large business interests in Detroit and throughout the state of Michigan on the call of President Wilson, Commander Newberry has charge today of the Third Naval district controlling the great port of New York and Brooklyn Navy Yard.

Mrs. Newberry is president of the Needle Work Guild of America (of which Mrs. Theodore Roosevelt is vice president) which has devoted its entire strength to the work of the American Red Cross, already having contributed more than $100,000.00 to this great cause. The commander's wife is in personal charge of this work in the city of New York, where an entire six story building is used exclusively for this purpose. Before leaving Detroit last spring Mrs. Newberry turned over to the Red

Cross the stately old Newberry home in that city and it is now used entirely for the work of the Michigan Red Cross contingent.

Has Two Sons In The Service.

Commander and Mrs. Newberry have twin boys, Barnes and Phelps Newberry, twenty-four years old. Barnes is an ensign in the United States navy, serving somewhere on the Atlantic on active duty. Phelps is a major in the Aviation division of the U. S. Signal corps, and is now stationed at Augusta, Georgia.

Their daughter, Carol who was sponsor for the battleship Michigan at its launching in 1908, is married and her husband is a first lieutenant of the U. S. Engineers, in active service in France since July, 1917.

Michigan, so thoroughly active in every enterprise looking towards a vigorous prosecution of the war of democracy and towards an early and decisive victory, is proud of the record of the Newberry family, intimately associated with the early and present history of the state's development.

Father A Michigan Pioneer.

Commander Newberry's father, John S. Newberry, was a Michigan Pioneer. A lawyer by profession, he was a trail-blazer by instinct. Many of the early developments bear his name and, while he accumulated a fortune yet he devoted both his time and money to the building up of his home city, Detroit, and the portions of the state in which his operations were carried on. The greatest monument to John S. Newberry, Sr., is the famous Grace hospital of Detroit, which he founded with gifts of himself and his partner amounting to nearly a half million dollars, a record for benevolence back in 1886. For nearly fifty years this great institution has been a haven for the poor and needy.

Truman H. Newberry was born on Nov. 5th, 1864, and began his life work in the construction gang of the old Detroit, Bay City & Alpena railroad, working his way up to the position of general freight and passenger agent. He later became president of the Detroit Steel & Spring company and the Detroit Steel casting company.

Commander Newberry is today the ranking officer of Michigan in the service of his country in the U. S. Navy, and his record includes an active participation in two wars.

Organized Naval Brigade.

In 1895 Truman H. Newberry was one of the organizers of the Michigan Naval Brigade in which he enlisted as a private. Early in 1897 Newberry was elected as lieutenant and navigating officer of the Detroit unit of the Michigan Naval Brigade, and

occupied this place as second in command when war was declared with Spain. The Yosemite gave a good account of itself and, on June 28th, 1898, was active in a three-hour engagement off San Juan, P. R., in which the Spanish steamer Antonia Lopez was driven ashore, although convoyed by a Spanish cruiser and two gun boats. Lieut. Newberry was among the first of the U. S. Marines to land on Spanish soil at Guatanoma Island. His brother, John, also served on the Yosemite.

In 1905 President Roosevelt appointed Truman Newberry assistant secretary of the navy, and in 1908 the Detroit man was given the naval portfolio and became a full fledged member of Roosevelt's cabinet. His record as secretary of the navy was one marked efficiency and whole-hearted service.

Took the Part of the Men.

Soon after assuming office he attracted the attention of the country by his vigorous handling of the New London, Conn., controversy with the Chamber of Commerce of that city. Marines in uniform had received scanty treatment there, and been barred from the theatres and many public places. Secretary Newberry stopped this sort of thing with a heavy hand, threatened to remove the training station to another city where the U. S. uniform commanded more respect and quickly obtained a written apology from New London to the Navy Department, and a promise to treat the men of the navy with the respect to which they were entitled.

Speaking in Detroit on February 2nd, 1909, Admiral Robley D. Evans, hero of the high seas during the war with Spain, said: "The Navy Department will be all right as long as Secretary Newberry is at the head of it," and the Saturday Evening Post remarked editorially that he had "courage and ideas of his own." It is a fact that Secretary Newberry actually began the work which resulted in more privileges, more pay and more honor for the enlisted men of the United States navy.

When President Taft became Roosevelt's successor he offered Secretary Newberry an ambassadorship abroad, but the Michigan man in declining said the United States were good enough for him to live in and work in.

On July 6th, 1917, President Wilson called Mr. Newberry back into the active service of the navy and made him commandant of the Third Naval District of New York. His office is one of prime importance, and he is actively on the job from early morning until late at night. He has not left his post since his appointment.

Personally Mr. Newberry is a man of unassuming character, a loyal friend and a model citizen. He holds a pilot's license on the Great Lakes and makes his home at Grosse Point farm, just outside of the city of Detroit. With his sons, in times of peace, he takes an active part in many of the business institutions of Detroit, and carries forward the public enterprises of his father, whom he succeeded as President of Grace Hospital.

He has taken into every activity of his life the same spirit with which Col. Roosevelt found him scrubbing the deck of the Yantic.

Commandant Newberry's record as secretary of the navy is full of incidents illustrative of the sterling character of the Michigan man. He upset many of the older traditions by favoring the younger and more vigorous men in the service, and he gave to the work of the navy department a degree of personal attention hitherto unknown.

Active on the Job.

Being himself the holder of a pilot and engineer license, he was familiar with the manual labor involved in service upon the seas, and no one in the various navy yards knew at what moment the secretary would appear in the yards or shops on a tour of personal inspection unaccompanied by the pomp of office. He was as familiar with the machinists' department and the common labor as with the foredeck of a battleship, and the only favoritism displayed during his official career was an appreciation of efficient and thorough service.

This same devotion to the actual work assigned to him has made the commandant a popular figure in New York. An incident is going the rounds which indicated the devotion of both Mr. and Mrs. Newberry to the work of the present war. A New York newspaper sent a reporter to interview them both and he appeared at their New York residence shortly before 8 o'clock in the morning. He was informed that Commandant Newberry had been at his office for nearly an hour, and Mrs. Newberry had left for the Red Cross headquarters downtown.

Their sons both inherit the Americanism of their parents.

Barnes, when the war broke out, at once enlisted in the navy as a common seaman, went to Newport and took the course of rigid instruction there and came out at the very head of the class. So thorough was his work that the officers recommended him for promotion.

Mr. Newberry's business career in Detroit has been characterized by his friendliness for young men who were ambitious but

handicapped in their desire to make progress. He has helped scores of his employees to advancement and been the first to recognize and promote the efficient and deserving worker.

All Michigan has reason to be proud of the valiant service which Commander Newberry is rendering his country today in a position of highest honor in the navy which has been conferred upon any man called to the colors from civilian life.

Mr. Newberry's Michigan friends are enthusiastically promoting his candidacy for the Republican nomination for United States Senator and confidently present his excellent qualifications for the consideration of the electorate. A. A. Templeton, of Detroit, is general chairman of the campaign with Paul H. King as executive chairman and Chas. A. Floyd, of Grand Rapids, as secretary of the state committee.

G. R. Murray, supreme president of the Railwaymen's Relief Association, has endorsed the Newberry candidacy and is pleased with the cordiality with which the campaign is progressing."

DEFENDANTS' EXHIBIT NO. 13.

"Our Motto: 'Peace, Love, Friendship and Security.' We are banded together for mutual protection.

Officers.

George R. Murray,
President.

James Hickey,
Vice President.

W. F. Murray, Secretary

A. Michelson, Treasurer.

C. T. Eckerman, M. D.
Supreme Medical Examiner.

Directors.

L. A. Knapp,
Chairman Insurance Com.

L. S. Ransom,
Member Insurance Com.

Robert Williamson,
Member Insurance Com.

F. J. Kantlehner,
Chair. Board of Trustees.

J. W. Stapleton, Trustee.

J. W. Gorman, Trustee.

RAILWAYMEN'S RELIEF ASSOCIATION
OF AMERICA
SUPREME DIVISION
HEADQUARTERS AT MUSKEGON, MICHIGAN.

Muskegon, Michigan, July 30, 1918.

To my friends in the Railway Service:

I feel it is due you all to know why I am endorsing and supporting the candidacy of Commander Truman H. Newberry for the office of United States Senator.

Mr. Newberry's record, public and private, is such as to inspire the confidence of every man. Early in life a railway worker, later a railway manager, Mr. Newberry possesses the elements that make him sympathetic and responsive to the cause of laboring men. His service as one of the organizers of and an enlisted man in the Michigan Naval Brigade, and later as Commander of the Yosemite in the Spanish American war, his record for efficiency as Assistant Secretary of the Navy and Secretary of the Navy in President Roosevelt's Cabinet, his laying aside of all personal and business considerations to tender his services and the benefit of his experience to his government when it entered the present war, and his recognition by the President of the United States and Secretary Daniels of the Navy, members of an opposite political party, his subsequent appointment as Lieutenant Commander of the Third Naval District of the United States, including the port of New York and the Brooklyn Navy Yard, and the most important commission of its kind to be given any civilian, leads me to believe that Mr. Newberry's broad business training, his comprehensive experience relating to governmental affairs, his grasp upon all public questions, his knowledge of problems connected with all angles of the present struggle, make him the most important figure in the present senatorial race in Michigan.

I have investigated his character and find that it stands the test. His integrity cannot be questioned, and his 100 per cent Americanism, proven by the fact that every member of his family is in the volunteer service of our country, appeals to me as it will, I feel, to every member of our organization.

After thoroughly looking into the situation in Michigan, I can say to you with all frankness that Mr. Newberry is at the present time the leading man in the race, and has every prospect of receiving the Republican nomination for United States Senator.

I trust that my friends among the railwaymen of Michigan

will put their shoulders to the wheel and make this result absolutely certain. The primaries come on August 27. The need for such a man as Truman H. Newberry to represent this state in the United States Senate is apparent to every thoughtful man. The opportunity for service is one never before confronting a Michigan man, taking in consideration the complex matters affecting all of us; matters affecting all the boys now in the service and conditions to come after the war; matters which Mr. Newberry is intimately acquainted with and with which he can intelligently deal.

I personally endorse Mr. Newberry's candidacy—the man, and the principles of sturdy Americanism which he represents.

Fraternally yours,

G. R. Murray, Supreme President."

RE-DIRECT EXAMINATION BY MR. DAILEY:

This article that has been read to the jury from the July number (Defendants' Exhibit No. 12) was the article published in the regular edition. I made no changes between the edition that went to the regular subscribers and the one that was sold to the Newberry committee. I saw the data upon which I based this July article in Mr. Floyd's office, in Grand Rapids. There was a farm journal there in which the advertisement appeared and from which I clipped most of that article. I knew of the Newberry family ever since I was a boy. I did not know Mr. Truman H. Newberry personally, and I had never seen him up until the time that I read this article. I got the information upon which I based the statement that "on the call of President Wilson, Commander Newberry has charge today of the Third Naval District controlling the great port of New York and Brooklyn Navy Yards" from this Farm Journal and the Newberry advertising. I had every reason to believe that it was true, or it would not be previously published. These trips that I made, and for which I later received $300 were made to meet the local organizations of the Relief Association. Mr. Moore was with me at the annual meetings. Outside of those it was regular meetings that I attended. I was visiting these Associations officially as President of the Association, and I was entitled to my expenses in connection with the duties of my office out of the Association fund. My expenses during that time run to $425. There was $240 of this that was charged up to the traveling expenses, and the other $60 was for postage. The Association would have owed me the $240. I gave the Association itself credit with $240, on

expenses. It was the latter part of May that Mr. Floyd and . King first came to me, if I remember correctly. I had not ocated the nomination of Mr. Newberry in our magazine till t time, nor had I said anything about it in the magazine until er they had seen me and told me that they would take care me on the proposition.

LLOYD C. McCORMICK, being sworn as a witness on behalf the Government, testified as follows:

IRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit, Michigan. I am office manager of the West- n Union Telegraph Company and have held that position since e middle of July, 1919. Prior to that time I was manager of e Credit and Collection Department. I am familiar with the pers and files in the Detroit office. There were a number f telegrams filed with our office in Detroit during 1918, in con- ection with the Newberry Senatorial campaign. I was after- ards asked to search out and produce such telegrams as had en filed during that time for transmission. I did not find tele- rams covering the entire period of the Newberry Senatorial mpaign. I could not find telegrams prior to August, 1918. We are only required under the law to keep the message files one ear, and at the end of each month we destroy the business that ecomes a year old, so that when the notice was served upon me he messages prior to that time had been destroyed according o our usual custom. The package of telegrams now shown me re messages taken from the files of our office at Detroit, which had been filed with our office for transmission. They were re- moved from the files under my supervision.

The telegrams referred to by the witness were here marked Government Exhibits for identification Nos. 47 to 47-Z, inclu- sive.

THE WITNESS (continuing): The messages that I have just identified are all original messages. Afterwards a statement was made up for the sending out of those messages and mailed to the Newberry Senatorial Campaign Committee, which paid the same. These other messages now shown me were also filed in our office for transmission at Detroit.

The additional telegrams referred to by the witness were here marked Government Exhibits for identification Nos. 48 to 48-C, inclusive.

THE WITNESS (continuing): A statement was afterwards

made up for the sending of those messages marked Government Exhibits for identification Nos. 48 to 48-C, inclusive, and mailed to the Republican State Central Committee, and the bills were paid. The additional papers now shown me are impression copies of telegrams received at Detroit, Michigan, from other offices, for delivery at Detroit. They were taken from the files of the office and were received at Detroit in the regular course of business by the Detroit office. The originals were delivered, so far as I know. The messages had our regular delivery numbers on them.

The impression copies referred to by the witness were here marked Government's Exhibits for identification Nos. 49 to 49-D, inclusive.

CROSS-EXAMINATION BY MR. LITTLETON:

These last papers are the impressions taken from messages coming into the Detroit office and represent the flimsy, so to speak, or thin paper impressions that were taken. It is a water-press copy; a wet piece of tissue paper is put over the message. The message, from which this copy is taken, is one which has been transmitted over the wire and taken down by somebody at the Detroit end.

Government Exhibits for identification Nos. 47 to 47-Z, inclusive; Nos. 48 to 48-C, inclusive; and Nos. 49 to 49-D, inclusive, were here offered and received in evidence, and read to the jury, as follows:

GOVERNMENT EXHIBIT NO. 47.

"WESTERN UNION TELEGRAM.
Detroit, Mich., September Tenth, 1918.

TO Mr. Paul H. King,
STREET AND NO. o.o Deleware & Hudson Co. Train Number Two,
Due New York.
PLACE Ten Ten P. M. Sept. Tenth, Whitehall, New York.
Commander Newberry wires as follows: Quote. Get word to Paul quick to meet me at Hotel Graylock, Williamstown, Massachusetts tonight. Unquote. Have wired Emery enroute New York these facts.

FRED P. SMITH.

Chg. Newberry Estate
Main 1715
FPS EK RUSH

GOVERNMENT EXHIBIT NO. 47-A.

WESTERN UNION TELEGRAM

Detroit, Mich., September Tenth, 1918.

TO Mr. Paul H. King,
STREET AND NO. c/o Deleware & Hudson Co. Train Number Two,
due Three o'clock, Sept. Tenth.
PLACE Montcalm Landing, New York City.

Commander Newberry wires as follows: Quote. Get word to Paul quick to meet me at Hotel Graylock, Williamstown, Massachusetts tonight. Unquote. Have wired Emery enroute New York these facts.

FRED P. SMITH.

Chg. T. H. Newberry.
Main 1715.
EPS EK

RUSH

GOVERNMENT EXHIBIT NO. 47-B.

WESTERN UNION TELEGRAM

1918 Sep 10 PM 3 01

A283 BU SVC
DETROIT MICH
OK WASHAMS NY YR DATE PAUL H KING D AND H TRAIN NO 2 MONTCALM LANDING N Y
R A ALBANY N Y 10.

GOVERNMENT EXHIBIT NO. 47-C

WESTERN UNION TELEGRAM

Detroit, Mich. September Tenth, 1918.

TO Mr. B. Frank Emery,
STREET AND NO. New York Central Train Number Forty,
Due Three twenty-five P. M. September Tenth.
Schnectady, N. Y.

Commander Newberry at Hotel Graylock, Williamstown, Massachusetts tonight. Commander asking Paul by wire to meet him there tonight. Have wired King care Deleware & Hudson Train Number Two, due Whitehall at Three Fifty-Five and Montcalm Landing New York at Three o'clock to catch him enroute.

FRED P. SMITH.

Chg. T. H. Newberry
Main 1715.
EPS EK

RUSH

GOVERNMENT EXHIBIT NO. 47-D

WESTERN UNION TELEGRAM

Detroit, Mich. September Tenth, 1918.

TO Lieut. Commander Truman H. Newberry,
STREET AND NO. Hotel Graylock,
PLACE Williamstown, Massachusetts.

Special Delivery letter received. Period. Mangum, Murfin, Emery absent. Period. Blair advises delay. Period. Hopkins thinks great good to be derived from immediate publication. Period. Please wire instructions. Period. Wired King this noon, Train Number Two. Deleware & Hudson, due Montcalm Landing, New York Three o'clock and Whitehall, New York at Three Fifty-Five P. M. Period. Also wired Emery enroute New York. Period. Wayne County Convention endorsed you today over protest of Monahan, County Chairman.

Chg T. H. Newberry.
EPS.EK

FRED P. SMITH

RUSH

GOVERNMENT EXHIBIT NO. 47-E

WESTERN UNION TELEGRAM

Detroit, Mich. September 10, 1918.

TO Lieut. Commander Truman H. Newberry,
STREET AND NO. Hotel Graylock,
PLACE Williamstown, Mass.

Mangum thinks letter should be given immediate publication.

FRED P. SMITH.

Chg. T. H. Newberry
EPS.EK

GOVERNMENT EXHIBIT NO. 47-F

WESTERN UNION TELEGRAM

Detroit, Mich. September 11, 1918.

TO Lieut. Commander Truman H. Newberry,
STREET AND NO. Hotel Graylock,
PLACE Williamstown, Mass.

Blair thought it better to hold letter as reserve. Others thought immediate use would brace any slipping ones. Period. News articles having no effect in State but damage is being done

locally. Period. No News editorial yesterday but played up action Democratic County Convention's criticising expenditures. General opinion News will continue nasty. Period. Free Press out strong in your support. Period. No comments on Blair's report.

FRED P. SMITH.

Chg. T. H. Newberry
EPS EK

GOVERNMENT EXHIBIT 47-G

WESTERN UNION TELEGRAM

September 11, 1918.

Commander Truman H. Newberry,
Williamstown, Mass.

Telegram received immediate action on letter same has been released for publication.

JOHN D. MANGUM.

Charge to Newberry
Senatorial Committee.

GOVERNMENT EXHIBIT NO. 47-H

WESTERN UNION TELEGRAM

September 11, 1918

Commander Truman H. Newberry,
Williamstown, Mass.

Second telegram received. Have withdrawn letter from papers.

John D. Mangum.

Charge to Newberry
Senatorial Committee

GOVERNMENT EXHIBIT NO. 47-I

WESTERN UNION TELEGRAM

September 11th, 1918.

TO Mr. Paul H. King,
STREET AND NO. Graylock Hotel,
PLACE Williamstown, Massachusetts.

CONTINUED BITTER ONSLAUGHT HERE. MUCH ANXIETY LANSING. CONSIDER PROJECTED PUBLICITY MOVE IMPERATIVE. WILL BE WASHINGTON TOMORROW, NEW YORK THURSDAY, IF YOU SAY SO.

MARK T. McKEE.

Send Paid—Charge Newberry Campaign Committee,
310 Ford Building—City.

GOVERNMENT EXHIBIT NO. 47-J

WESTERN UNION TELEGRAPH CO.

Detroit, Mich., Sept. 12, 1918.

B. F. Emery,
c/o Biltmore Hotel.
New York City.

Mangum out of town. Everything through the state quiet all county conventions indorsing commander. Wayne county carried over protest Moynihan which element appears unfriendly.

CHAS. A. FLOYD.

Charge to Newberry
Senatorial Committee

GOVERNMENT EXHIBIT NO. 47-K.

WESTERN UNION TELEGRAM.

Detroit, Mich. September 12, 1918.

TO Lieut. Commander Truman H. Newberry,
STREET AND NO. Mountain House.
PLACE. Lake Mohunk, New York.

Editorial News tonight somewhat milder. Period. County endorsements throughout the State continue. Everything all right here.

FRED P. SMITH.

EPS.EK
Chg. T. H. Newberry.
Newberry Sen. Com.

GOVERNMENT EXHIBIT NO. 47-L.

WESTERN UNION TELEGRAM

Detroit, Mich. September 13, 1918.
3:30 P. M.

TO Lieut. Commander Truman H. Newberry.
STREET AND NO. Biltmore Hotel, Madison & Vanderbilt Aves.
PLACE New York, N. Y.

Murfin states that if there is any assurance that the Colonel will make speeches here during campaign, he thinks it inadvisable to publish letter now as it would offset to a large extent the benefit of speeches. Period. If no speeches, then immediate publication letter desirable. Period. Sees no objection to Nevin

employment. Period. News today carries front page article headed: Quote—State Board Eludes Issue. Sleeper and Vaughan sidestep certification: Unquote. Election certificate due Monday next. Period. Grosbeck away for two weeks. News also carries editorial: Quote. It is up to Michigan Unquote. Disconsolate in tone at failure to start anything. Period. Everything all right here.

FRED P. SMITH.

Chg. T. H. Newberry.

GOVERNMENT EXHIBIT NO. 47-M

WESTERN UNION TELEGRAM

Detroit, Mich. Sept. 14, 1918.
11:50 A. M.

TO Lieut. Commander Truman H. Newberry,
STREET AND NO. Hotel Biltmore, Madison & Vanderbilt Aves.
PLACE New York, N. Y.

News carries vicious cartoon and article first page, claiming Congressional investigation impending covering McCormich and other activities. All right here.

FRED P. SMITH.

Chg. T. H. Newberry,
EPS.EK.

GOVERNMENT EXHIBIT NO. 47-N

WESTERN UNION TELEGRAM

Detroit, Mich. September 17, 1918.
4:45 P. M.

TO Lieut. Commander Truman H. Newberry,
STREET AND NO Third Naval District. 280 Broadway.
PLACE New York, N. Y.

News cartoons and editorials exhausted. Nothing tonight. The welcher from the Soo, however, is still in correspondence with the Democrats. Everything all right here.

FRED P. SMITH

Chg. T. H. Newberry
EPS EK

GOVERNMENT EXHIBIT NO. 47-O

WESTERN UNION TELEGRAM

Detroit, Mich. September 23, 1918.
11:05 P. M.

TO Lieut. Commander Truman H. Newberry
STREET AND NO. Third Naval District, 280 Broadway,
PLACE New York, N. Y.

Will arrive tomorrow morning. King arrived this morning. Everything all right here.

FRED P. SMITH.

Chg. T. H. Newberry.
EPS EK

GOVERNMENT EXHIBIT NO. 47-P

WESTERN UNION TELEGRAM

Detroit, Mich.
October 6, 1918.

James F. McGregor,
Douglas Hotel.
Houghton, Michigan.

Return at once to Marquette. See messenger if you left before he arrived.

Chil.

GOVERNMENT EXHIBIT NO. 47-Q

WESTERN UNION TELEGRAM

Detroit, Mich.
October 6, 1918.

James F. McGregor,
Hotel Marquette,
Marquette, Michigan.

Wait there for messenger.

Chil.

GOVERNMENT EXHIBIT NO. 47-R

WESTERN UNION TELEGRAM

Detroit, October 6, 1918.

Myron T. Sherwood,
Marquette, Michigan.

Hold McGregor Marquette for messenger. Leaving tonight.
Chil.

GOVERNMENT EXHIBIT NO. 47-S

WESTERN UNION TELEGRAPH COMPANY

Day letter.

Detroit, Sept. 10th, 1912.

Paul H. King,
Graylock Hotel
Williamstown, Mass.

Have talked to Hopkins. Do not believe anyone will presume to give out interview on any subject. Think you are perfectly right about avoiding defensive attitude. Really thought the Oyster Bay statement inadvisable, but Hopkins thinks the boys here and in nearby counties are disturbed and could be stiffened up by such means. Today's News contains vicious first page cartoon with "Pay as you Enter" sign at entrance to United States Senate chambers; also two nasty editorials and indirect attack included in publicity full page patriotic league showing Ford contribution. Republican Committee yesterday around state adopted very strong resolutions of indorsement. Phones your house and children well and happy. Hope they let you get some rest.

CHARLES.

GOVERNMENT EXHIBIT NO. 47-T

SERVICE MESSAGE. RUSH

Williamstown, Mass.

Ours tenth King Sgd Charles fwd Biltmore Hotel N Y.
Svc Detroit, Mich. Sept, 12 1918 L S 1042 A.

GOVERNMENT EXHIBIT 47-U

WESTERN UNION TELEGRAM

Detroit, Mich, 1918 Sep12 AM 8 32

148 NY Svc
Detroit, Mich.

Yrs 11 Paul H. King undld party left for New York adds unkn
Williamstown, Mass 12

GOVERNMENT EXHIBIT NO. 47-V

WESTERN UNION TELEGRAPH CO.

Detroit, Mich. Sept. 10, 1918.

DAY LETTER:

Paul H. King,
Biltmore Hotel,
New York City.

Have talked to Hopkins. Do not believe anyone will presume to give out interview on any subject. Think you are perfectly

right about avoiding defensive attitude. Really thought the Oyster Bay statement inadvisable but Hopkins thinks the boys here and in nearby counties are disturbed and could be stiffened up by such means. Yesterdays News contained vicious first page cartoon with pay as you enter sign at entrance to United States Senate Chambers also two nasty editorials and indirect attack included in publicity full page patriotic league showing Ford contribution. This patriotic league publicity appears in Free Press this morning. Todays News contains only editorial along regular line of attack. Republican committees around state adopted very strong resolutions of endorsement. Please wire Fred Smith direct authority to pay out of available assets routine financial matters including pay roll. Understand Mangum has nothing available for his and Turner expects us to advance same. Please wire by noon Friday if possible as I leave Friday night returning here Monday morning. Phone your house and children well and happy. Hope you get some rest.

CHARLES.

GOVERNMENT EXHIBIT NO. 47-W

WESTERN UNION TELEGRAM

N. Y. September 10th, 1918.

TO PAUL H. KING
STREET AND NO. care Biltmore Hotel,
PLACE, New York City.

Our friends taking active interest election state delegates and personnel county organizations. News continues first page stories of attack, yesterdays from Washington stating without doubt United States senatorial investigation will be forthcoming. Today announcing Wayne County endorsement and featuring Moynahan's protest to same. Little attention paid this end of campaign outside of Detroit. Osborn papers lining up generally. Perry Powers coming through with reluctance. State Central Committee still lacking sinews of warfare. Planning campaign based principally on election two republican congressmen to succeed democrats. Without doubt our nucleus must be kept intact to work in full harmony but particularly interested in our behalf. Ford statements continue to appear with every indication through state of extensive publicity campaign. Office here getting along fine. Have a good trip.

CHARLES.

GOVERNMENT EXHIBIT NO. 47-X

Detroit, Mich. September 12, 1918.

Charles.

Newberry senatorial committee 310 Ford Bldg. Detroit, Mich. Your telegram 10th to Paul King New York is undeld. Uncalled for. Ind Dept W U Tel Co.

GOVERNMENT EXHIBIT NO. 47-Y

1918 Sep 12 AM 12 05

A19 NY
Detroit Mich

Uncalled Y 10 blue P H King Biltmore Hotel Sgd Charles
B 1 New York N.Y. 11

GOVERNMENT EXHIBIT NO. 47-Z

WESTERN UNION TELEGRAM

September 11, 1918.

Colonel Theodore Roosevelt,
Oyster Bay, New York.

We have among many subscribers raised one hundred and seventy-six thousand dollars to nominate Commander Newberry period every dollar has been expended in strict accordance with the law and with the highest ethical standards period we felt it our patriotic duty to stand by Mr. Newberry because he and his sons have in this war lived up to the doctrines you have preached and we opposed Mr. Ford for the reasons you have set forth period we are sure that you approve of Mr. Newberry's candidacy.

Newberry Volunteer Committee.
Charles A. Floyd, Secretary.

GOVERNMENT EXHIBIT NO. 48

WESTERN UNION TELEGRAM

October 30, 1918.

Hon. Truman H. Newberry,
c/o Hotel Gotham,
New York City.

Wire received. O'Brien letter given to Free Press.

Paul H. King.

GOVVERNMENT EXHIBIT NO. 48-A

Detroit, Mich.
October 5, 1918.

Manager,
Opera House,
Grayling, Michigan.

Forward Our Navy film parcel post Manager Opera House West Branch.

H. A. HOPKINS

GOVVERNMENT EXHIBIT NO. 48-B

WESTERN UNION TELEGRAM

Detroit, Mich.
October 4, 1918.

Manager,
Auditorium Theater,
Saginaw, Mich.

Deliver Our Navy Film to Pictureland Theater Saginaw Monday.

T. P. PHILLIPS.

GOVERNMENT EXHIBIT NO. 48-C

WESTERN UNION TELEGRAM

Detroit, Michigan.
October 12, 1918.

Manager,
Liberty Theater,
Kingsley, Michigan.

Return Our Navy film to three ten Ford Building Detroit parcel Post. H. A. Hopkins.

GOVERNMENT EXHIBIT NO. 49

WESTERN UNION TELEGRAM

Williamstown, Mass, Sep. 11, 1918.

Chas. A. Floyd,
1264 Ford Bldg., Detroit, Mich.

Many thanks for wire don't let any attack put us on defensive ignore them entirely of course have our people refer all interviewers to Blair here today and probably tomorrow please keep me posted best regards.

Paul.

GOVERNMENT EXHIBIT NO. 49-A

WESTERN UNION TELEGRAM

New York, N. Y. Sep. 25, PM

Frederick Cody,
Hotel Statler,
Detroit, Mich.

Many thanks for your cheering bulletin keep me posted.

TRUMAN H. NEWBERRY.

GOVERNMENT EXHIBIT NO. 49-B

WESTERN UNION TELEGRAM

New York NY October 21

John D. Mangam, Chairman,
310 Ford Building,
Detroit, Michigan.

Senator Smith telephoned he would see me here Wednesday morning I assured him I would continue to make every honorable and legal effort to be elected please see him and post him fully on present conditions and wire me.

Truman H. Newberry.

GOVERNMENT EXHIBIT NO. 49-C

WESTERN UNION TELEGRAM

New York, N. Y. Nov. 22,

Fred P. Smith,
1224 Ford Building,
Detroit, Michigan.

What date did you pay my contribution to the Michigan State Central Committee. Reply quickly.

Truman H. Newberry.

GOVERNMENT EXHIBIT NO. 49-D

WESTERN UNION TELEGRAM

Williamstown, Mass. Sep. 20
7:30 PM

John H. Mangun,
310 Ford Building,
Detroit, Michigan.

Publish letters as soon as received answer here.

TRUMAN NEWBERRY.

CROSS-EXAMINATION BY MR. LITTLETON:

I produced the messages which have been put in evidence before the grand jury, together with many others, about a thousand in all, and left them there. I have not seen the others since I came here as a witness, and have not been asked to examine any others except these, which have been put in evidence. I do not know where the other part of the thousand messages are now. They have not been returned to my office. I have not seen them since I produced them before the grand jury.

LOUIS LEVENSON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in New York City, where in February, 1918, I was a telegraph operator for the Western Union Telegraph Company. The paper now shown me, marked Government's Exhibit No. 50 for identification is an original copy of a telegram transmitted to the New York office from the phone department of the Detroit office.

The paper was here introduced and read in evidence, as follows:

GOVERNMENT EXHIBIT NO. 50.

WESTERN UNION TELEGRAM

DETROIT, MICHIGAN, Feb. 15 PM
9 19

Fred Cody,
380 Riverside Drive,
New York, NY

Could not get away tonight. Will be there Sunday morning.
Paul H. King.

LOUISE SCHAUDER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Brooklyn, New York. In March, 1918, I was a telephone and telegraph operator for the Western Union Telegraph Company at 990 Sixth Avenue, New York City. The paper now shown me, marked Government's Exhibit No. 40 is the copy of a message handled by me. It came from Detroit.

The message referred to by the witness was here introduced in evidence and read to the jury, as follows:

GOVERNMENT EXHIBIT NO. 40.

WESTERN UNION TELEGRAM

Detroit, Mich.
March 1, AM 7 59

Hon Truman H Newberry,
Hotel Gotham, New York NY

Wire received thought you might have some letters from friends have secured offices in Ford Building will be ready Monday am perfecting office organization everything all right except matter you know about would not advise your writing Miller further now on that point will give details to Fred personally.

Paul H. King.

WALTER GERSHKOWITZ, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 444 Wyona Street, Brooklyn, New York. In July, 1918 I was a Western Union Messenger boy. The paper now shown me, marked Government's Exhibit No. 43 is a message which I handled. I made delivery of this telegram, at 280 Broadway, room 434-A; it was taken by somebody in the U. S. Navy uniform.

The telegram was here introduced in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 43.

Detroit, Michigan, July 28, 1918.

Lieutenant Truman H. Newberry,
Third Naval District,
280 Broadway, New York.

I misinformed you this morning the date of close of regular expenses. Should have said August 27th. The circular work, advertising, clerical help, postage and all regular overhead expenses will naturally continue until primary. Have written.

Fred P. Smith.

TERRY KELLY, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is in Saginaw Michigan, where I have resided about 35 years. I am acquainted with the defendant, Richard Fletcher.

I had something to do with the circulation of the James W Helme petitions in Saginaw in 1918. I received the blank peti tions that I circulated from Mr. Fletcher himself in the free em ployment office at the city hall in Saginaw, Michigan. I am no positive how many he gave me; I didn't count them; there migh have been a dozen, and there might have been more. Besides th petitions Mr. Fletcher gave me $50 in money. After the peti tions had been circulated and signed I sent them to Lansing my self. I believe Mr. Fletcher told me to do that.

CROSS-EXAMINATION BY MR. LITTLETON:

I also circulated petitions for Mr. Sleeper for nomination fo Governor, but those I received from the Commissioner o Labor's office in Lansing. I don't know whether Mr. Fletche sent them himself, or whether his clerk sent them; I know I re ceived them in the mail at my office. Mr. Fletcher gave th Helme petitions to me himself in the free employment office i the basement of the city hall in Saginaw, Michigan, of which was superintendent, working for Mr. Fletcher. I circulated Helme petitions and I paid men for circulating them.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

The only petitions that Mr. Fletcher handed me were th Helme petitions. The others had come to me before through the mails.

JAMES C. QUINLAN, being sworn on behalf of the Govern ment, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 343 National Avenue, N. W., Grand Rapids. At the present time I am cash grain manager for the Watson-Higgins Milling Company. In 1918 I was a salesman for the same com pany. I took some part in the Newberry campaign that year. Some time in July or August I had a conversation with the de fendant Charles Floyd about the connection I was to have with the campaign. My business took me into the northwest part of the state, and in telling Mr. Floyd that, I asked if there might be something I might find out as to how the campaign might be looking in the northern part of the state. He asked me if I would. I told him I would be glad to do that. I did so on my trip which was made before the August primary. On my return I saw Mr. Floyd again and I gave him the condition as it looked from the standpoint of my own view. He asked me if I incurred

any expenses. I told him I had to the extent of somewhere around $25.00, and that it was for the purchase of probably a few cigars in connection with some men I had met, and some entertainment in the line of taking a friend out to lunch or something of that sort. Mr. Floyd gave me the money in currency. If I recall correctly, it was $25.00 and some odd cents. That had been a business trip. I went primarily for my firm. After that time I did some further campaign work, not alone in connection with Mr. Newberry's campaign, but also in behalf of the rest of the fellows of our own district here.

CROSS-EXAMINATION BY MR. LITTLETON:

I think the conversation that I had with Mr. Floyd with reference to my business trip up through the northern part of the state, was had along the middle part of August. Before that I had said a good word for Mr. Newberry wherever I had an opportunity to do so, and I was anxious to do it. I was a Newberry man. On this trip my business took me into Traverse City, Charlevoix, Petoskey and East Jordan. I think I called up, or called upon, people at Petoskey with reference to Mr. Newberry's candidacy. Aside from the business I did for the firm, the only thing that I did was to ask friends of mine whom I had known for some time what the condition looked with reference to the possibility of Mr. Newberry's election. Afterwards I made a report to Mr. Floyd of the situation and gave him the names of people that I talked with. I kept right on boosting, however. I certainly was enthusiastic in my views about it. But that was the extent of my connection with Mr. Floyd in the primary election. The $25.00 and some odd cents that Mr. Floyd paid me was absolutely for expenses that I had been put to.

STANTON W. TODD, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Grand Rapids and am in the wholesale paper business which is located in this city. I have met the defendant Charles Floyd. I had a telephone conversation with him about July 29th, 1918, with reference to some paper. He gave me an order for approximately one ton of print paper to be shipped to the Kalkaska Publishing Company, which publishes a paper of which the defendant Ed Nowak is the editor. He told me to charge the ton of paper to the Newberry Senatorial Committee, and it was so charged. The paper was shipped to Kalkaska. It was to be

cut before shipping. The bill for that paper was approximately $126.16, and was paid by the Newberry Senatorial Committee.

CHASE S. OSBORN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I reside at Sault Ste. Marie, Michigan. I have lived in the state of Michigan between 30 and 40 years, over 30. I have been Post Master, State Game and Fish Warden, Commissioner of Railroads, Regent of the University of Michigan, and I attempted to be Governor. I was Governor of this state in 1911 and 1912. I thought I was a candidate for United States Senator during the primary of 1918 on the Republican Ticket. My name was on the ballot. I was 60 years old on the 22nd of January last, last month. I have met Henry Ford. He is about my age, or very near I think.

The defense here admitted that the candidates for United States Senator at the primary in 1918 had the qualifications of United States Senator and had the necessary constitutional qualifications for that office.

In 1918, prior to the primary, I was over the state of Michigan a great deal. I was then interested in my campaign.

Q. During that time did you notice the newspapers generally in the state of Michigan?

MR. LITTLETON: That I object to.

THE COURT: You may answer that.

MR. LITTLETON: I except.

A. Yes, I did.

Q. Did you notice the advertisements in the various newspapers of Michigan for Truman H. Newberry?

MR. LITTLETON: That I object to.

THE COURT: You may answer that.

MR. LITTLETON: I except.

THE COURT: Just state Yes or No in answer to this question.

A. Yes.

Q. Had you learned at that time of the moving picture exhibits, and of the Headquarters that was maintained at Detroit and of the field agents that were being sent out from Headquarters to cover the state, and of their expenditures in connection with the Newberry campaign?

MR. LITTLETON: That I object to upon the ground that what he had learned, if he had learned it, would not be compe-

tent evidence, and upon the ground it would be immaterial, if he had learned it, to the questions involved in the issues of this indictment.

THE COURT: You may answer that Yes or No.

MR. LITTLETON: I except.

THE WITNESS (continuing): I think I met the defendant Mark McKee once. It was in his office in Detroit. Possibly I met him twice. I think I met him once in the Pantlind Hotel in Grand Rapids here. I cannot say as to whether I met him in Detroit in March, April or May, 1918, but along in that time of the year.

Q. Had you had a talk with somebody with reference to Mark McKee before you called at his office that day?

MR. LITTLETON: That I object to.

THE COURT: You may answer that Yes or No.

MR. LITTLETON: I except.

THE WITNESS (resuming): Yes, with Teeney Daniels. At the time I called at Mr. McKee's office in Detroit I had a short conversation with the latter.

Q. If you said anything to him with reference to Teeney Daniels and what Teeney Daniels had said to you, tell the jury what you said?

MR. LITTLETON: I object. As to the first talk it doesn't call for a conversation. In the second place it would be utterly immaterial and not binding upon anybody as to what Governor Osborn had said to Mr. Mark McKee about Teeney Daniels. Teeney Daniels is not a defendant in this indictment.

THE COURT: I will take the testimony. The witness may answer.

MR. LITTLETON: I except.

THE WITNESS: I went to perhaps get acquainted with Mr. McKee. I told him some time previously, quite a little time, rather explaining or apologizing for not having called before, that Teeney Daniels had told me that he could deliver the Senatorship; that he had possibilities of organization that could be utilized in a way that would insure an election to the Senatorship for $150,000 to $200,000; while I hadn't any such sum, and couldn't think of anything of that kind, I thought I would call and tell him about it, and talk with him over it, and see if I could not get his support, without such considerations. He was very pleasant and very agreeable, and said I had come too late. I think he said that he had not decided as to who he would support; that I am not so very clear upon; but he would not support me.

I think I know that McKee had a partnership in Detroit at that time with Paul King. I think I had cards of announcement of King & McKee, or McKee & King. I think he told me that day that Mr. King had taken the management of the Newberry campaign, and moved out of his office on that account, or moved away, something, so as to separate the offices, because we discussed the proprieties involved in having the work done at their Red Cross office, so on, and so forth. I think that was part of the conversation.

I have known the defendant Milton Oakman ten or fifteen years—a goodly while. I think he resides in Detroit. I met him once or twice while I was about the state in the primary campaign of 1918. I recall a conversation I had with him on a boat going to a Republican club or picnic where I spoke, either on the boat or at the picnic; I think the speaking occurred on the boat. Almost everybody that was supposed to be politically interested or concerned was on the boat. Mr. Oakman was on the boat, and as an old friend and acquaintance, we had a talk. I said to him, "Milt, I understand why you are not supporting me—" he had been supporting me —"but I have no feeling in the matter whatsoever. It seems to be to your interest. I was up there in Lansing, and they told me you were to receive $25,000, and at that time had $12,500, and so forth. He said that it was made very clear to him that his interest was to be with Mr. Newberry, and he had to look out for himself; that I knew the character of the fight, and what it took to put it up in Wayne County, and it was to his interest. I said, "I don't blame you." But he said, "John Smith will be for you." I said, "That is very wonderful, if this doesn't take the entire organization." He said, "John Smith is loyal to you;" parenthetically he claimed to have been all through, and very pleasantly so. I don't think I asked him directly whether he had received the other half of the $25,000. I simply said, "I know you are to receive $25,000 or more," and I think I said, "Make it cost them what you are worth," something of that sort.

I remember talking with the defendant Richard Fletcher during the campaign. The first time I saw him he said he was for me. Later on in the campaign I had a talk with him about whom he was supporting, and he said he was supporting Mr. Newberry, and was not for me.

I met Paul King in my visits about the state. I remember meeting him at Muskegon at one time after the Ford candidacy had been sprung. It was about the 4th of July. Mr. King said to me, "This is a bad deal that is on now." I says, "It is

not worrying me any." He says, "We ought to stand together," and I says, "A kind of a game you fellows are playing, you can go to Hell; I am not in on it,"—which was not very nice language, but I fear that is what I said. I would like to add to that conversation that I said, "You ought to drag out Newberry now and I will take care of Ford," being fairly well worked up at the time. He said, "We ought to keep near together." I said, "Drag out your man; you are not getting anywhere."

MR. LITTLETON: I move that the evidence of this witness be stricken from the record and this jury advised to disregard it insofar as the evidence relates to a conversation had between the witness and the accused, Mark McKee, on the ground that the conversation which the witness testified to as having had with Teeney Daniels and subsequently redelivered by him to Mr. McKee, Mr. McKee simply saying that he had come too late, or words to that effect, and that he had not decided whom he would support, connects it in no wise, legitimately or fairly, with Mr. McKee's subsequent support of Senator Newberry; nor can it be used as an implication against that support, and certainly not in support of any of the charges made in the indictment. The statement made by the witness to Mr. McKee of what Teeney Daniels had said to him about what he, Teeney Daniels, could do under certain money and organization, cannot be carried over against McKee or against the accused person, unless it appears that at that time Mr. McKee had been in some way obliged to or bound to the organization of the Newberry forces.

FRANK C. BURMASTER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I reside in Kalamazoo. I am janitor of Gilmore Brothers Department Store, and was so employed in the summer of 1918. I know Charles Farrell, who lives in Kalamazoo. I had a conversation with him before the primary campaign in 1918, with reference to Mr. Newberry's candidacy. He asked me if I could devote any of my time towards circulating petitions, and distributing literature for the Truman H. Newberry campaign. I said I could devote some of my time to it. He told me that he did not expect me to do it for nothing, that he wanted to get clean-cut fellows, and so on and so forth, and asked me about

whatever time I had to do it, and that I would be paid whatever my time would be worth. He gave me all-told six or seven petitions. I filled two of them and part of another myself. I imagine he paid me altogether about $35. I did not make him any regular statement of expenses on account of it, only verbal, nor was I asked afterwards to make any statement of my campaign expenses in any way.

W. F. THOMAS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I reside at Constantine, St. Joseph County. I was formerly Judge of Probate and Prosecuting Attorney. I know James Davis. I had a conversation with him in the summer of 1918, as to the Newberry campaign. He called on me and asked me how I stood on the Senatorial candidates; I told him I was for Mr. Newberry. He said he was glad to learn that, because he was interested in the candidacy of Mr. Newberry. He said he had been to Three Rivers and talked with several influential Republicans up there, and they thought it might be advisable if I accepted the chairmanship of the Newberry Committee in the county. I told him I was not in a position to give it very much time, but I was interested in the campaign, and would accept, after some thought. Mr. J. B. Burns was my Secretary. During that campaign I made some trips with my automobile, accompanied by Mr. Burns. Our purpose was to locally see different men in the various villages and ascertain their sentiments, and if possible enlist their local support in behalf of Mr. Newberry; also to distribute literature. Following those trips, or in connection with them, I think I received about $6.00 to $8.00. I made about three or four such trips with Mr. Burns with my own machine. That, it was stated, was paid me for gasoline. I did not know from what source that money came. Mr. Burns, the Secretary of our committee, paid it to me. I know Mr. Paul King. He was in the County once, I think, during the Newberry Primary campaign and he rode with me about the county in a few towns. There was a trip made from Constantine to Three Rivers, Centerville, and Sturgis. I think, possibly a day or two after the primaries, I received a telegram from Senator Newberry. I may have received a letter sometime in May or June. I am not prepared to say. I think it was something to the effect he was glad to learn I was interested in

his behalf, and thanking me for any support I might give him, or something to that effect. I think last spring I received a wire from Mr. Newberry that my name had been entered for subscription to Harvey's Weekly. That publication did not come to me, and I did not begin receiving it until the summer or along towards the fall of 1918. I accepted the chairmanship of the Newberry committee in St. Joseph County at the request of James R. Davis.

ARTHUR A. BUTTERWORTH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I reside at Suffern, New York. I am an accountant with Harry J. Strong, Incorporated. In the fall of 1917, and the summer of 1918, I was employed as an accountant at the Hotel Biltmore, and as such, I had charge of the records of that hotel at that time. From those records the following appears: On December 29th J. G. Hayden, of Washington, D. C., was registered in room 945. On January 14, 1918, Oscar B. Marx and Robert Oakman, both of Detroit, were registered in room 338. They left on January 20th. On January 17th there was a telephone communication from their apartment to Detroit, for which the charge was $13.15. On January 18, 1918, Milton Oakman, of Detroit, registered in room 403, and Charles A. Nichols in room 1236. Milton Oakman departed January 23rd. His account at that time, amounting to $128.75, was paid by Mr. Fred Cody. Paul H. King, of Detroit, registered February 17, 1918, in room 1625, and departed on February 18th. Presumably, his account was paid by himself. On March 24, 1918, Roger Andrews and his wife registered in room 432; Mr. and Mrs. A. A. Templeton in room 332; Mr. and Mrs. Paul King in room 334; and C. L. Sibben in room 447. Mr. Truman H. Newberry did not register there on that occasion. Mr. and Mrs. Roger Andrews departed March 26th. Templeton and wife, Paul H. King and wife, and C. L. Sibben departed on March 25th. Their bills in the following amounts: A. A. Templeton and wife $13.90, Roger Andrews and wife $41.10, Paul King and wife and C. L. Sibben $19.20, were charged to the account of Truman H. Newberry. He also registered in rooms 340 and 342 the same day. He had the use of those rooms for the day, presumably for a couple of hours, and departed the same day.

On April 20th Allan A. Templeton, of Detroit, registered in

room 1917; Paul King, room 1919; C. L. Sibben, room 2017; and Bert D. Cody, room 262. Their bills, in the following amounts: C. L. Sibben $4.80, Bert D. Cody $9.85, Allan A. Templeton and Paul King 12.11, were all charged to the account of Truman H. Newberry. H. A. Hopkins was registered on April 21st in room 2025, and he departed on April 23rd. His bill on that occasion, amounting to $23.33, was charged to Truman H. Newberry. A. A. Templeton, of Detroit, was registered May 31st in room 1043, and he remained until June 1st. The account, amounting to $5.00, was charged to Truman H. Newberry. He, Truman H. Newberry, resided at the Biltmore from June 1st to September 18th, 1918. Thomas P. Phillips was there from June 2nd to June 5th, and his account was paid by Truman H. Newberry. Mr. Phillips was registered again in room 725 and departed on July 3rd. On June 1st a Charles Keiser was registered in connection with the Newberry party in room 1046. I believe he is Mr. Newberry's valet. He was registered during all the time that Mr. Newberry was there. On July 11th B. D. Cady was registered in room 2003, and he remained until the 12th of July. July 11th John F. Gates and Franklin Moore, of Detroit, registered in room 2005. All of these accounts were paid upon the departure of the guests; the records do not specify by whom. The full amount was paid. On July 22nd Thomas P. Phillips registered again in room 929, and he departed July 24th. His account was paid upon his departure.

On July 14th Mr. Paul King, of Detroit, and Mr. Sibben were registered in room 1018. They departed on the 15th. Their accounts were charged to Truman H. Newberry. On August 13th A. A. Templeton, of Detroit, Paul H. King, and Charles A. Floyd registered, all in room 928. On August 11th Mr. B. F. Emery and wife were registered in room 1016, and they remained until August 13th.

CROSS EXAMINATION BY MR. LITTLETON:

In all these cases, in which I say, "Paid on the departure of the guests," presumably it was paid by the guest himself. Mr. Newberry had apartments in the Biltmore from June until September sometime, and was constantly there during that period.

AUGUST FIELD, another of the defendants named in the indictment, but who had pleaded nolo contendere, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Manistee, Michigan, and am manager of the Hotel Chippewa. I am acquainted with the defendant, Charles Floyd. He came to Manistee one evening in April, 1918, asked me if I would take charge of Manistee County in the interest of Truman H. Newberry's campaign, and I told him I would. He said that I was to be chairman, as I understood. A few weeks later I received a check for $200 from Mr. Floyd. I did not keep any accurate record of what I did with the money. I paid it out to different ones, for different things. I am acquainted with Paul King. In May or June I talked with him over the telephone. He said he was coming to Manistee on the noon train, and leaving on the 2:35, and asked me if I could get a few fellows together; he would like to meet them and have luncheon with them. I arranged a luncheon of twenty at my hotel. Mr. King was the only speaker. Mr. Floyd, who accompanied Mr. King, gave me $100, two $50 bills, that day. He told me to pay for the luncheon. I paid the hotel $30 for it, that is, I paid the hotel bill to myself. He also asked me to give the $100 to Richard Hoffman, County Road Commissioner, for to work in the interest of Newberry. I think Mr. Hoffman was present at the luncheon. I gave him $50 that day and later I gave him $50 more. Afterwards I received another $300 from Mr. Floyd during the primary campaign. I do not know whether that was a check or draft. It was sent to me from Grand Rapids. All of this $600 was used in Manistee County. My recollection is that I gave either $95 or $105 to John Myers, who acted as Secretary on the local committee. Several Newberry nominating petitions were circulated in my county. I had charge of the securing of men to carry them. I employed a fellow by the name of Max Kabzben for that purpose. He circulated one. I think he had two or three hundred names on his petition. I paid him $10. I do not know as I employed anyone else for nominating petitions. Meyers had some two or three sent in, or give me, I know, and I got out one myself, and that was all that I paid out for petitions that I remember of. I cannot name all the men to whom I paid other sums of money for other purposes. I paid out $10 more to Kadzben for passing out literature, and I paid $20 to a fellow by the name of Gus Carlson, that had an automobile, for automobile hire. I went with him, around out through the courty two different times—$10 a trip. I was canvassing the county to see people in the interest of Newberry. At the close of the primary campaign or the general

election, I had a talk with Charles Floyd over the telephone. He said he wanted a report, and I says, "You know how much money you gave me, and I think I have spent it all; can't you make a report?" He said, "I wish you would make a report of $120." He asked me to make it; he said, "Put in about $120." As near as I recollect, I did make a report for $120 instead of $600, but I do not remember what items I listed in it. I do not know whether I sent it to the Grand Rapids office or Detroit; I could not say for sure.

With reference to the film, "Our Navy," I made arrangements to have it shown at the Lyric Theatre before the arrival of the film. Defendant George Rogers brought me the film in an automobile from Grand Rapids. He said he was sent there with it by the Newberry committee in Grand Rapids. I do not remember whether I informed the men who were exhibiting this picture that it was an official Navy reel. I think I told them it was a Navy reel. It was only shown there one evening. I think it was advertised in the Manistee paper.

CROSS EXAMINATION BY MR. LITTLETON:

Before I went in the hotel business, I was sheriff of the county for four years. Before that I was superintendent on the Big Manistee River Drive for 18 or 20 years. Before I had been spoken to by Mr. Floyd in April, 1918, I was a Newberry man. I was then manager and part owner of the hotel in Manistee. I took charge of the Newberry campaign in Manistee County because I was a Newberry man, and for no other purpose or reason. I did not take charge of it because I thought I could make money out of it. I had been active in politics in the county for some time. After I had talked with Floyd and agreed to take charge of the Newberry campaign in the county, I got Mr. Myers for Secretary and asked him to get some nominating petitions out. He got some fellows to get some of them out and I got some others and myself. There were not over five petitions filled up with names. These when filled out were sent to headquarters. After I had secured the petitions, I entered into a publicity campaign. They sent me lots of literature, and I got men to distribute it for me—Kadzben and several other men besides. Another one that I gave $10 to up in the country was Lewis Hackerrath; I gave him $10 and a lot of literature. I had lots of boys distributing it all over.

Among those who were present at the luncheon I have mentioned—I do not believe I could name all of them—were King, Floyd, Arch. Marshall, Adolph Lotz, and I think Senator Tufts.

Arch. Marshall was from the county, but most of them was right around from the city. I only had about an hour to call up a few fellows to come. The luncheon was paid for out of the money which had been given to me. With regard to Mr. Hoffman, we agreed that we thought that being County Road Commissioner, he could do a lot of good work for Newberry's campaign, on account of being around the county so much. I gave him literature. We did not organize an entire committee for the county. I simply got a Secretary and I acted as Chairman.

In doing what I did in support of Senator Newberry, I had no intention or object to violate any law. After the primary I did nothing to any extent in the general election. I had some boys post some photographs of Mr. Newberry just before the election, by request of the chairman of the Republican county committee. I did what I did in the primary campaign for Mr. Newberry, as a Republican, and as a citizen, because I believed it was for the best interests of the community, and for no other reason.

I do not think I knew over eight or ten of the defendants at the time I was indicted.

RE-DIRECT EXAMINATION BY MR. DAILEY:

When Mr. Floyd came to me in April of 1918, I was not personally a friend of Mr. Newberry's and had never met or seen him. It was my purpose to accept this $600 that Mr. Floyd gave me at various times, and it was my purpose to pay it out. It was my intention, when I did pay the money out, to pay it at places where I thought it would bring the best results for Mr. Newberry in his race. I never asked the men I employed whether they were interested in the candidacy of either Mr. Osborn or Mr. Ford, and it was my intention, if I could, by the use of this money, to procure men from the other camps, if it were possible. Mr. Newberry was not known up in our district, and this was given and I paid out this money—this money to distribute this literature so that he could be known amongst the people. This man Kadzben is a Pole. There is a Polish settlement in our neighborhood. It is not large.

RE-CROSS EXAMINATION BY MR. LITTLETON:

Although I did not know Mr. Newberry at the time, I was for him because I thought that it was for the best interests of the country to support him. In paying out this money, or any part of it, I had no arrangement or agreement with anybody, directly

or indirectly, to violate a statute of the United States, or a statute of Michigan.

MR. LITTLETON: Before we resume the taking of evidence, I desire to make a motion with reference to what happened yesterday. Having had an opportunity to examine the stenographer's minutes, I now renew the motion heretofore made to strike from the record the evidence of the witness Ex-Governor Osborn, regarding his interview with Mr. McKee, on the ground that Mr. McKee at the time was under no charges of any kind, and under no obligation, or required to make any reply to the statements made by the witness, Ex-Governor Osborn, to him at that time, on the ground that any statement made by Mr. Osborn to Mr. McKee could not be binding upon even Mr. McKee at that time, nor certainly any of the other accused persons in this indictment.

THE COURT: It will be the same ruling that was made yesterday.

MR. LITTLETON: I except. I ask your Honor to say to the jury in reference to that testimony, that any statement made by Mr. Osborn, or characterizations by him to Mr. McKee, with reference to the campaign, or anything with reference to the campaign is not evidence against Mr. McKee or any of the accused persons in this indictment.

THE COURT: That will be denied; the whole conversation is to be taken together.

MR. LITTLETON: I take an exception.

THE COURT: Any statement that was made by either of the parties to the conversation.

MR. LITTLETON: I take an exception to that and I move, in reference to the testimony of the witness, Ex-Governor Osborn, in which he testified as to the conversation with Mr. Milton Oakman, that the same be stricken out and that the jury be advised to disregard it, on the ground that it appears that all that was said in that conversation was said by Mr. Osborn himself with reference to the witness Oakman, and what the witness Oakman had gotten in this campaign; and that it appears that the witness Oakman made no reply of acquiescence or consent to the statements made by the witness Osborn.

THE COURT: That application also will be denied.

MR. LITTLETON: Exception.

I make the same request with reference to the instruction to the jury, to the effect, if the court please, that any statement made by Mr. Osborn to Mr. Oakman, as to what he had heard, or whether he had heard it or not, any statement made to Mr. Oakman by Mr. Osborn at that occasion is not evidence against any of the accused persons.

THE COURT: Application denied.

MR. LITTLETON: Exception.

ALBERT L. PRATT, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived at Ludington, Mason County, Michigan, ever since I was born, 44 years and over. I am in the real estate business, and operate a farm. I know the defendant Mr. Carl B. Matthews. He is a lawyer and lives at Ludington. During the summer of 1918 I was at Mr. Matthews' office on several occasions. On one occasion I was called to the office by telephone. Tom Reed, who was the Speaker of the last House of Representatives, was there with Mr. Matthews. Mr. Reed, who was about ready to leave, asked me if I would circulate some Helme petitions. I told him that I would not have time to do it; I was very busy; that I would really like to see his petitions circulated, because I was an admirer of Mr. Helme. He asked me if I could get somebody else to circulate them. I told him I would try to do so. Mr. Reed said that if I had to pay money for getting the petitions circulated he would reimburse me. I received two or three blank forms of Helme petitions, and I got a Mr. Yakes and a Mr. French to circulate them. Later they brought them back to me, signed. I paid Mr. French $5, and Mr. Yakes $5.50. I asked them what their bill was and each one made the statement as to amount. I am not sure what I did with the petitions after these two gentlemen returned them to me; I either took them to Mr. Matthews' office and left them, or mailed them.

G. SHERMAN COLLINS, being recalled as a witness for the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

In the spring of 1918, prior to the primary, I received several letters from Mr. Paul King, with reference to the Newberry

campaign. I had known him before that. Subsequently and before the primary, I received through the mails, an envelope addressed to me and postmarked Detroit, containing a check for $300, issued, I think, by the Commonwealth Savings Bank. I cashed that check in the bank with which I am connected and gave the cash to Mr. H. S. Jennings.

MR. LITTLETON: I move to strike out that testimony, if your honor please, with reference to Mr. Jennings.

THE COURT: It may stand.

MR. LITTLETON: I except.

Q. Had you and Mr. R. S. Jennings had some conversation before you received this $300 with reference to some work that was to be done in behalf of Mr. Newberry in connection with either Paul King or James McGregor?

MR. LITTLETON: Objected to for the reason it is a summarization of the conversation with Mr. Jennings, who is dead.

THE COURT: I think I will sustain that objection. You may ask this witness if his turning over the check was pursuant to a previous arrangement.

MR. LITTLETON: Also, with due respect to your honor, I except to that, and take an exception.

Q. State whether or not the delivery of this $300 by you to Mr. Jennings was in pursuance of an arrangement between you and Mr. Jennings prior to that time with reference to the Newberry campaign.

A. It was.

HERBERT W. DAVIS, sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Baldwin, Lake County, Michigan, and am the publisher of the Lake County Star. I lived there and was publishing that paper in 1918. I know Paul King. Some time prior to the primary of 1918 I received a wire from Mr. King asking me to meet him at the train, the morning train going through Baldwin, and possibly to accompany the train from Baldwin to Peacock, and meet the other train. I did so. Besides Mr. King, there was a number in the party at that time, but I forget the names. I think Mr. Sibben, Mr. King's stenographer, was with the party. The train Mr. King was to arrive on was late and had to detour by Big Rapids, which put them in there too

ate, and in order to make the other train I had to go to Traverse City. On arriving at Traverse City, I accompanied the party to the hotel and that evening they had a supper with a number of local people at the Whiting Hotel. I should say forty or fifty people were present there. Speeches were made. Mr. King spoke and a number of others. I know nothing about how the expenses were met or paid. I did not have to pay anything. I cannot tell you who paid the expenses of my trip on that occasion. I do not know whether or not Mr. King or Mr. Floyd did. I did not. In connection with my campaign activities, I had a telephone message from Mr. Floyd asking me to see to it that the poll list of the county was properly seen to. Some time previous to the 4th of July, I received a check from Mr. Floyd for $50. That was shortly after the conversation about the poll list, and was in connection with it. I had not sent in any written claim or demand for any money, and nothing had been said to me about the matter of expenses up to then. Shortly before the primary, I sent in a statement and expense account which is filed in this court. That was filed before Mr. Dailey at the Grand Jury. I think the amount was $53 and some cents, but I bunched it at $50, which was sent me. I did not make any written report of the first $50 that Mr. Floyd sent me. I carried advertising in the Newberry campaign for which I was paid, I think, $21.25. The paper now shown me is a copy of the contract I made with the Newberry Committee for the advertising. It was executed in duplicate and the other copy was mailed to the Committee and the advertising man, Mr. Hopkins.

The paper referred to by the witness was here introduced in evidence and marked "Government Exhibit No. 56" and read to the jury, as follows:

GOVERNMENT EXHIBIT NO. 56

ADVERTISING CONTRACT

Original for the
Publisher's files.

TRUMAN H. NEWBERRY
For Republican Nomination for United States Senator,
310 Ford Building,
Detroit.

May 10, 1918.

The Truman H. Newberry Senatorial Committee agrees to use a total of 150 inches of space in the Baldwin Star between

May 25, 1918, and September 1, 1918, for which it agrees to pay the rate of 9 cents per running column inch, payment for service to be made monthly upon receipt of bill and additional space to be furnished pro rata, all advertising announcements to be in the form of electros.

While no preference position is exacted under this contract, it is requested that a position apart from other advertising matter be accorded whenever convenient to makeup.

THE TRUMAN H. NEWBERRY SENATORIAL COMMITTEE.
By H. A. Hopkins,
Director of Publicity.

THE WITNESS (continuing): I received two letters from Truman H. Newberry. The two papers now shown me are the envelope which contained one of these letters and the letter itself.

(The papers referred to by the witness were here introduced in evidence, marked "Government Exhibits Nos. 57 and 57-A respectively, and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 57

Postmarked: New York, Jun 24, 3 P. M. 1918.
Address: Mr. Robert W. Davis, Baldwin, Michigan.

GOVERNMENT EXHIBIT NO. 57-A

Letter Head:

TRUMAN H. NEWBERRY
Detroit, Michigan.

New York City,
June 17, 1918.

My Dear Mr. Davis:

I am sorry that I cannot get home to tell you how thoroughly I appreciate your friendly attitude toward my candidacy for the Senate, for it is only through the approval of my friends that any success can be achieved, and no one knows better than I how helpful your influence will be.

Hoping to have the opportunity of thanking you in person at some future time, I remain,

Sincerely yours,
TRUMAN H. NEWBERRY.

Mr. Hobert W. Davis,
Baldwin, Michigan.

CROSS-EXAMINATION BY MR. LITTLETON:

I have been the publisher and editor of the Lake County Star about eighteen years. I had twice announced myself in my newspaper in favor of Mr. Newberry for Senator before I received these communications from Mr. King. The dinner at Traverse City seemed to be like a sort of a general meeting, well, sort of a love feast, I guess, and get together and talked things over. It seemed to be very informal in character. I knew a great many of the gentlemen who were there by sight, whom I had seen at conventions and other places. They were residents of Traverse City and nearby. Mr. King made a speech and there were a number of responses, all in reference to the candidacy of Mr. Newberry for Senator. I cannot give the date, except that it was in the latter part of May. I gave them what information I could as to how different parts of Lake County would stand, as to what the general sentiment was in reference to Commander Newberry, and talking over particularly the military situation, the need of a military man, and I being in a position publishing a newspaper, I am quite well posted and well in touch with different parts of the county, and I presume they figured they could get that information from me very readily. Mr. Floyd said he wanted as many of the local people as he could to support Commander Newberry openly, believing that public sentiment would carry a great many of the people who were on the fence or undecided—had not made up their mind—wanted as many representative men as he could get. Nothing was said by him with reference to any other kind of work that I should do or would do, that I remember of. Some time after this meeting at Traverse City, I received a petition which I kept on my desk in the office. Whenever a man came in on business, I asked him if he would sign it. I did not have anybody else circulate the petitions. With reference to the distribution of literature, whenever I would go out to a picnic or farmers' meeting, or go anywhere on business looking up news matters and stuff like that, I would take along a bunch of this Newberry literature in the car. When I would meet a man and talk to him, I would hand him sort of a bunch of it and talk the matter over. I do not remember exactly when I received the first $50 from Mr. Floyd, but it was some time previous to the Fourth of July. I bunched the account at $50. There was a little error in preparing this poll list. I had the County Clerk prepare the poll list and through some error the check was sent to me. At the same time the County Clerk had legal

publication in my paper amounting to $5.25, and this $5 check came; so I said, "Fred, I will endorse this check and you can pay me the quarter," so I got it. Then I supplemented the list with other names of my own, so in sending in this expense account I cut off this $3.85, I imagine, I think it was. I had the County Clerk prepare the poll list, and I had him mail it direct to Detroit. No, the check for the poll list was sent to me; I merely endorsed it and credited him with his legal publication. It was intended for him. Before I entered into the advertising contract with the Senatorial Headquarters, I had already advocated the election and nomination of Mr. Newberry for Senator. I think April 16th and May 10th were the dates of those two publications. I was not what you would call active after the primary election. I stood by my guns in my newspaper and personally, I supported the man in the primaries and asked my friends to do so.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

I have not yet met Commander Newberry. I only knew him politically, knew his record. I had no personal acquaintance with him. I did not pay for the poll list in the first instance. They sent the check to cover that, but by mistake sent it to me. The cost of the poll list was $5. The expense account that I sent covered all the expenses which I had had for money paid out by me, outside of this first $50. I had the expense of my own car, and gasoline, hotel bill, in connection with going around the country and circulating literature—feeling out the sentiment. I do not remember how many trips I had made with my car before that first $50 was paid me. There had been some; I had been around. The first $50 payment must have been a month after the Traverse City dinner or banquet, and it was in that month that I incurred the expense that that $50 covered. Nothing had been said to me at Traverse City or at any other time when I saw Mr. Floyd with reference to paying me for whatever I might do. In his telephone conversation, Mr. Floyd said, "Don't hesitate to do anything that comes handy to do because of the expense. If you want to go to a certain place, don't hang back on account of the expense because the expense would be taken care of." That was the conversation about the time I had incurred some of the expenses that the first $50 covered.

RE-CROSS EXAMINATION BY MR. LITTLETON:

I was familiar with Senator Newberry's public service. It was on the strength of that that I endorsed him.

WILLIAM OSBORN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I reside in Grand Rapids and have lived in Michigan thirteen years. I am an automobile salesman. During the entire year 1918 my residence address in Grand Rapids was 326 Cherry Street.

The witness was here shown one of the primary nominating petitions of James W. Helme, which had been identified as a petition filed in the office of the Secretary of state of the State of Michigan, upon line, No. 7, of which appeared the following name and address: "William Osborn, 326 Cherry."

THE WITNESSS (continuing): I did not sign my name to that petition, nor did I authorize anybody to sign my name to it. I know that is not my handwriting.

MR. LITTLETON here moved that the testimony of the witness touching the petition be stricken from the record, on the ground that it does not appear that whatever was done with reference to the same, or the signature there, is binding upon the respondents in this action. I did not know what the line of testimony would develop until Mr. Dailey asked him the question; in fact, I did not get the drift of it until he asked him the direct question, whether he had given his residence, and whether he had signed this petition. I do not think the testimony as to whether he did or did not sign that petition is binding upon the persons charged in this indictment.

THE COURT: The testimony may stand.

MR. LITTLETON: I except.

THE COURT: I take it this petition that you have shown the witness is one of the Grand Rapids petitions concerning which testimony was introduced the other day.

MR. DAILEY: I do not mean to say that we have shown any connection between this particular petition and anybody in Grand Rapids; I mean all petitions in general, instead of any particular petition.

THE COURT: I am inclined to think that there should be the connection made. I understood the petition shown the witness was one of the petitions con-

cerning which there had been testimony as to its circulation.

MR. DAILEY: We will show, and have, I think, now, that the petitions in Grand Rapids were in charge of certain of the defendants in this case, in charge of Mr. George Welsh, Mr. William Mickel. We will show that they had them printed; that this committee paid for the printing of the Helme petitions; and that they had to do with the circulation of them around here.

THE COURT: If you show that they are the petitions which were handled or circulated by the defendants, or procured to be circulated by the defendants, the testimony is competent. The testimony may stand.

MR. LITTLETON: An exception.

THE WITNESS: (continuing): I received the letter now shown me, marked Government Exhibit No. 58, from Truman H. Newberry during the spring or summer of 1918, enclosed in the envelope marked Government Exhibit No. 58-A.

The letter which has been shown me, Government Exhibit No. 58, does not refresh my recollection on that subject. That is the reason I preserved it; because I had no recollection of having signed a petition.

MR. DAILEY here read the envelope and letter referred to by the witness to the jury as follows:

GOVERNMENT EXHIBIT NO. 58-A

The envelope: "New York, N. Y., Grand Central. August 21, 1 P. M., 1918. Mr. Wm. Osborn, 326 Cherry St., Grand Rapids, Mich."

GOVERNMENT EXHIBIT NO. 58

Truman H. Newberry, Detroit, Michigan.
New York City, August 17, 1918.

Mr. Wm. Osborn,
326 Cherry St.,
Grand Rapids, Mich.

My Dear Mr. Osborn:

It is very good of you, indeed, to sign the petition for me for United States Senator and I wish to express my great appreciation.

I will be unable, on account of my work here in the third Naval District, to come home to thank you personally, as I

would very much like to do, and so am writing you. I shall always try to merit your confidence in me.

Again thanking you, I remain, with best wishes,

Sincerely yours,

TRUMAN H. NEWBERRY.

CROSS-EXAMINATION BY MR. LITTLETON:

I do not know from memory whether or not I signed a Newberry petition. My first name is Jonathan, but I go by the name of William. I dropped the Jonathan. I have no recollection of signing any petition before the primary election in 1918. I do not mean by that that I did not sign a petition. What I think is that I did not sign either Newberry's or Helme's; that is my best belief about it. But as to that, I could not be sure.

BY MR. DAILEY:

I am certain about the Helme petition since I have seen the signature. I know I did not sign that.

WILLIAM TOLSMA, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in the 6th Ward in Grand Rapids. I have lived in Grand Rapids all my life. In May, June and July, 1918, I lived at 1034 Broadway.

The witness was here shown the second page of a primary nominating petition for James W. Helme, filed in the office of the Secretary of State, the same being one of those previously identified, on the third line of which appeared the following: "William Tolsma, Grand Rapids, 1034 Broadway. 7-25-1918."

THE WITNESS (continuing): I am the William Tolsma who lived at that address at that time. I did not sign that petition. That is not my signature—my handwriting.

THE COURT here stated that the witness' testimony was taken subject to the objection that was made to that given by the witness William Osborn, touching the petition exhibited to him, and the same ruling was made, and an exception duly noted.

I did not authorize anybody to sign my name to a James W. Helme petition.

CROSS-EXAMINATION BY MR. LITTLETON:

I did not sign any nominating petition in the spring of 1918 as I know of. I do not remember. My best recollection is that I did not sign a petition of any sort.

GEORGE ADAMSON, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Kalamazoo. In July, 1918, I lived at 116 Gladys Court.

The witness was here shown a Helme primary nominating petition, which had been previously identified as having been filed in the office of the Secretary of State for the State of Michigan, on line 20 on page 1, of which appeared the following: "George Adamson, Kalamazoo, 116 Gladys Court. "7-24-1918."

THE WITNESSS (continuing): I am the G. Adamson who lived in Kalamazoo and at 116 Gladys Court at that time. I did not write this. That is not my signature. I did not authorize anybody to sign my name to that petition. There was no other G. Adamson who lived at that place, or residence address, at that time.

MR. LITTLETON: I move that the evidence be stricken from the record on the ground it does not appear that any accused person circulated this petition, or directed anybody to circulate the petition in Kalamazoo.

THE COURT: The objection should have come, of course, before the testimony.

MR. LITTLETON: Your honor, I do not mean in making it now—I hesitate to make the objection so frequently to the witness' testimony, but it did not appear what the witness was going to say about the petition, about whether he signed it or not, or just what his testimony would be. I am scarcely able to make the objection except as a repetition of some old objection, unless I make it in this fashion. I shall make it in advance hereafter.

MR. DAILEY: May I ask the Court to withhold the ruling until we have introduced the Kalamazoo witnesses who do know about which one of the defendants that did bring the petitions to Kalamazoo? We have witnesses here and will prove that to the Court.

THE COURT: Very well. Upon that statement, it may stand for the time being. It will be subject to be stricken out unless the proof is made.

EARNEST K. BAXTER, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Grand Rapids, Michigan, about eighteen years. In June and July, 1918, my residence was 1038 Madison Avenue.

The witness was here shown a paper designated as a primary nominating petition of James W. Helme, which had been previously identified as having been filed in the office of the Secretary of State.

BY MR. DAILEY:

Q. I ask you, please, to look at line 19 on page 1 of the petition and read to the jury what appears there?

MR. LITTLETON: This evidence is objected to, if your honor please, on the ground that it does not appear that any of the respondents in this prosecution, this indictment, circulated the petition which has been shown to the witness and which is now being examined by the witness.

THE COURT: It will be received.

MR. LITTLETON: Exception.

A. "Earnest K. Baxter, Grand Rapids, Mich., 1036 Madison Avenue. June 26, 1918."

THE WITNESS (continuing): That is where I lived at that time. I am the only man who lived at that address at that time. I did not sign that petition; no, sir.

MR. LITTLETON: That is objected to upon the same ground, if the Court please, as I stated before; that it does not appear that any respondent circulated this petition. THE COURT:

~~MR. LITTLETON~~: It may be received.

MR. LITTLETON: Exception.

THE WITNESS (continuing): That is not my signature or my handwriting. I did not authorize anybody to sign my name to that petition.

CROSS-EXAMINATION BY MR. LITTLETON:

I did not, to my knowledge, sign a nominating petition in

1918. I have no present memory of having done so. I do not think I did. I would not say that I did not.

BENJAMIN O. BUSH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived at Kalamazoo over fifty years. I was there during the summer of 1918. I have known the defendant, Harrison Merrill, for the past seven or eight years. The defendant, Thomas Bigger, was introduced to me along the latter part of July, 1918, at Kalamazoo by Mr. Merrill. I had a talk with Messrs. Bigger and Merrill at that time, with reference to what Mr. Bigger was doing in the city of Kalamazoo, and with reference to the circulation of petitions. Mr. Merrill came to me and said, "Here, you want to make a little easy money? This is my friend, Thomas Bigger; he wants some senatorial petitions circulated for James W. Helme. It does not take—most anybody will sign it, and the petitions don't amount to very much anyway." Then Bigger stated, "We want these petitions circulated, and we will pay you—if you will have 250 here signed, to be given to me next Monday morning"—Monday was the day prior to the last date of filing—"we will pay you $25, or the same rate for more or less, that is, ten cents per name." We talked along a little bit, and he handed me one of the petition blanks. I looked into it, to see if it was made out in legal form, and saw it was for James W. Helme, nomination petition for United States Senator, and I says, "Why, what are you trying to do, beat Ford both ways?" He said, "We have got enough to beat him in the Republican primaries, and we will trim him here if we can." I was a little doubtful, but they pressed it onto me. Finally they handed me about a dozen of the blanks. I put them in my pocket and went out. This, as I remember it, was about eleven o'clock in the forenoon. I went out, and I had a few friends there, four or five of them, that signed, signed the petitions. Then I went home to my dinner. I did not procure any more signatures. The next day, or the day thereafter, I destroyed the petitions. The following Monday I saw Mr. Merrill, who said, "Have you got those petitions?" I said, "No, I have lost them." He said, "Bigger is over here." I had a glimpse of him, but I did not have any conversation with him the second time.

ADRIAN VAN KRIMPEN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 1038 Broadway Avenue, Grand Rapids, and was living there in July, 1918. No other voter by the name of Van Krimpen was living there besides myself.

The witness was here shown one of the James W. Helme petitions which was filed in the office of the Secretary of State of Michigan, and his attention called to line 4 on page 2.

BY MR. EICHHORN:

Q. Tell the Court and jury what is written on that line 4?

MR. LITTLETON: That is objected to upon the ground that it does not appear that this petition shown to the witness was circulated either by or under the direction of anyone of the respondents in this prosecution; it does not appear that it may not have been circulated independently entirely of any of the petitions which they did circulate in Grand Rapids. Therefore, it is not connected with any respondent in this particular prosecution.

THE COURT: The objection will be overruled.

MR. LITTLETON: An exception.

A. That is not my writing.

THE WITNESS (continuing): "J. Van Krimpen, 1038 Broadway Avenue," is written on that line. The is not my writing. I did not sign that name, "J. Van Krimpen." I did not authorize anybody to sign my name. I was not a voter of the State of Michigan at that time. I was born in Holland and was not naturalized in the United States until September 15, 1918.

GEORGE E. McKINLEY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Flint, Genesee County, Michigan, and was living there in 1918. I am Park Superintendent and was acting in that capacity in 1918. I was acquainted with Mr. Fred Henry in the summer of 1918. At that time he was Deputy Labor Commissioner, Factory Inspector of the State of Michigan. He came to my office and told me he had met an old friend of mine and I asked him who it was, and he told me Jim Helme and asked me if I would circulate some petitions for Mr. Helme for United States Senator. As I recall it, he told me he would give me

$100 if I could get petitions filled out and sent in within that week. He delivered about twenty petitions to me, but I did not circulate them. About a week afterwards he called me on the phone from Howell and asked me how I was coming with the petitions. I told him, "Not very well." He told me to continue and do the best I could. That was before the final day for filing the petitions. I heard no more of it until the day prior to the last day of filing petitions when I got a telephone call from Lansing. On that occasion I talked with the defendant Dick Fletcher. He asked me what I had done with the petitions. I told him I had sent them on to him. He said, "Well, all right, perhaps I will receive them tonight." I did not turn in any signed petitions at any time.

CROSS-EXAMINATION BY MR. LITTLETON:

Prior to becoming Park Superintendent at Flint I had held the office of Mayor and Alderman. I did not know Mr. James Helme personally. I knew him by reputation. I am a Democrat. I knew Mr. Helme to be a Democrat. I did not circulate any of the Helme petitions or procure names to them, or return any of them, and my statement to Mr. Fletcher over the telephone was not entirely accurate. That was the end of my connection with the matter. I received no money for procuring signatures to these petitions. There was no suggestion made to me by Mr. Henry or by Mr. Fletcher that I should get names in any other way except an honest way and a genuine way. I was simply asked to circulate the petitions.

EDWARD J. JEFFRIES, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit, Michigan, and have been Judge of the Recorder's Court between four and five years. I was born in Detroit, and have resided there all my life except for about seven or eight years. I have been more or less intimately acquainted with the defendant Fred Castator the last four or five years. Before the primary of 1918 I had a conversation with him at my private office in the court room in Detroit. Mr. Castator asked me if I knew Mr. Helme, and I said I did. He asked me how well I was acquainted with him. Well, I said, "I have known him for a great many years in a political way." He asked me whether I had any influence with him, and I told him I didn't

know whether I had or not. I said, "I know Mr. Helme," and that I thought a good deal of him personally; I didn't know what his attitude was towards me. I said, "Well, what do you want?" He said, "I would like to have you use your influence" or "see him," I don't remember just the exact expression, "and secure him to run for Senator on the Democratic ticket." I replied, I said, "Well, Fred"—I used that expression—"in the first place I am with Mr. Ford and I don't think he has any chance of being elected, and I think Mr. Ford has and if the Democratic party of Michigan could elect Mr. Ford for Senator it certainly would be a credit to the Democratic party and an honor to the State of Michigan." I said to him, "Fred, what interest have you as a Republican in securing the nomination of a Democratic Senator?" I don't think he made any reply; he smiled. And I then said to him, "Fred, if I were you I think I would keep out of that affair; you are a candidate for the Common Council. It is a good position, you have a good future, you are a young man yet, and if I were you I don't believe I would be mixed up in it." I think, substantially, that is all that was said.

G. M. FRIANT, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Grand Rapids. I am a clothing salesman at Wurzburg's Dry Goods Store. In the summer of 1918 I was living at Muskegon, where I was District Representative for the International Correspondence School. I was also Secretary of the Trades Union at Muskegon. At that time I became acquainted with one Frank McGraw. Just a few days before the close of getting in petitions for the primary—I don't know the date—I had a conversation with Mr. McGraw with reference to nominating petitions. At that time I worked two days circulating or assisting in circulating the Helme petitions for Senator. I was paid about $15, but I don't know just exactly, on the basis of ten cents a name. I think I got about 150 names to the petition; it was figured out and I was paid. I had a conversation then or at some subsequent time with Mr. McGraw, concerning employment in connection with the Newberry Campaign. I subsequently had a conversation with some other person, I do not know who it was, never saw the man but the once, I understood he was from Grand Rapids.

CROSS-EXAMINATION BY MR. LITTLETON:

I did not put any names myself on these petitions that I circulated except my own.

H. ALLEN MOYER, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Charlotte, Eaton County, Michigan. I am a physician and surgeon. I have been living and practicing at Charlotte about 15 years, including the summer of 1918. At that time I was assistant examining physician for the Conscription Board. I have met Paul King. I know Dr. J. B. Bradley, and am on speaking terms with Thomas Bigger. I saw all of them at my office in Charlotte in the summer of 1918, before the primaries. They called at the office and they wanted to know how I stood on the question of United States Senator. I told them I was a Newberry man; and they wanted to know if I would see that there was literature put out through the city. I told them I could not do it myself, that I would have to have it hired. They said that the expense would be taken care of. I could not say that anything was said about circulating petitions at that time. Later Dr. Bradley gave me petitions, asked me to have them signed and gave me $20 in currency. I could not say that any Newberry literature had been left with me at that time; there was soon after. I hired a man living there in the city that does that work of distributing hand bills, and also I hired boys to put them in the automobiles on the streets. For that work I expended all the money that was given to me, the $20. I could not tell you at what rate I paid; it was something in the ratio of $2 per day for the boys and the old man $4 a day. During the primary and general election, I did do some work along the same line as before the primary in the distribution of literature relating to Truman Newberry's candidacy, and was paid $30 by Dr. Bradley in connection with it. I could not say from whom I received the literature that I distributed; it was in the office; I think most of it came by parcel post. I made no statement of my expenses or expenditures in connection with the campaign. I was with Dr. Bradley when he told Mr. Ward, editor of the Charlotte Tribune, that he would pay him regular advertising rates for publishing Newberry editorials in his paper.

CHARLES J. QUADE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is in Powers, Menominee County, Michigan. I publish the newspaper called "The Powers-Spaulding Tribune." I have been located at Powers for 18 years. During the campaign of 1918, I carried the regular Newberry Senatorial Committee advertising. I believe the first insertion was May 31st, and the last one just before the general election. I got twenty cents an inch. I think that the total advertising throughout the primary and general election, of the advertisements pertaining to the Newberry campaign, amounted to approximately $75. The advertisements for which I secured 20 cents an inch amounted to perhaps about $55. There was only one advertisement after that, and that amounted to $24. I had a circulation of about 800. I know Roger Andrews. He called on me during the primary. He did not request me to support any person. He stopped in the office, and he says, "I see you are carrying the Newberry advertisements." I said, "Yes." He says, "Who are you supporting?" I told him, "Chase Osborn," and he says, "You better come in with the winner; I am supporting Newberry." I told him I would not do it, because I thought Osborn was a better man. After that conversation, and prior to the primary, Mr. Andrews requested me to run some advertising in my newspaper, in addition to the advertising I was getting from Detroit. He sent a Newberry advertisement to be placed in my paper. I believe it came in the form of a proof-sheet; the bill for it was $9.60—48 inches at 20 cents an inch. The bill for the other advertising was sent by me to the Newberry Senatorial Headquarters, 310 Ford Building, Detroit, and paid from there. The Newberry headquarters subscribed for my newspaper at $1.50 a year. It was sent to Truman H. Newberry, 310 Ford Building, Detroit.

WILSON YOUNG, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Flint and am a machinist. I was living in Flint in the summer of 1918. I did some political work in connection with the Newberry campaign that summer. The defendant Henry first talked with me about it. I met him in connection with the campaign work at his house. There were present at that time Mr. Dean, Mr. Paul King, Mr. Richard Fletcher, Mr. Maddigan, and there were quite a few others. I do not know whether there was a Mr. Floyd present at that meeting. I passed

some literature and some buttons. My occupation at that time was the same as it is now, in the machine shop of the Buick Motor Corporation. I received the buttons that I was asked to distribute from Mr. Henry, who also gave me a $10 bill with the buttons, saying, "There is something in my pocket for you besides buttons." I do not know whether this was before the primary or after. It was before the election, I know that. I did not do any work election day. I saw Mr. Henry election night at the Court House, where the returns were coming in. I drove him up to his house in Mr. Dean's machine. He laid $10 on the seat of the automobile and said, "That is yours." He did not ask me in that connection whether I had had any expenses or anything of that sort. I made no statement to him of any expenses.

CROSS-EXAMINATION BY MR. LITTLETON:

The meeting I refer to, at Mr. Henry's house or home was one in which Mr. Stoddard's candidacy for State Senator was discussed. I do not remember whether I was told that meeting was to be had for the purpose of discussing Mr. Stoddard's candidacy as State Senator. I was just asked to come to the Republican meeting, and I went. I figure there was somewhere along about eighteen or twenty present; I could not swear to how many were there. That one room was filled, a few seated in the hall. There was some talks. I do not exactly remember what they were about. I know Mr. King talked; a few of them got up and talked, but I cannot remember anything they said about it. They were talking about Senator Newberry's candidacy. Prior to that meeting I had done nothing else in the campaign for anyone else. After the meeting I did some work with reference to the distribution of literature and buttons. Those buttons and that literature did not relate to any other candidate except Senator Newberry. All I did with the Newberry buttons was to place them on the dining room table, and the fellows got them and that is what I did with the literature. I also worked for Mr. Stewart, who was a candidate on the Republican ticket against Mr. Stoddard. I did no work for anyone else besides Mr. Stewart. I did not attend other meetings than the one I have already testified about. I did nothing with reference to the candidacy of Mr. Newberry or Mr. Stewart other than I have already told.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

The buttons that were distributed were Newberry buttons.

FRANK M. SPARKS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Grand Rapids slightly over 15 years. I am associate editor of the Grand Rapids Herald and have been acting in that capacity for about four and one-half years. I have known the defendant, Richard Fletcher, at least ten years, possibly more. I had a conversation with Mr. Fletcher in his office in Lansing in which the matter of the expenditures by the Newberry Senatorial Committee in the Newberry Senatorial campaign was referred to. The conversation occurred, as near as I can figure, on March 11th, 1919. The matter came up incidentally; I was in there with reference to another story, and in the course of the conversation it drifted around to the matter of the recent campaign, and something was said about the matter of expenditures; I do not recollect just what, and I made the statement that I believed that rather than $176,000, that the campaign must have cost nearer a half million, and Mr. Fletcher said, "A half million Hell! It cost nearer eight hundred thousand, and I know what I am talking about."

CROSS-EXAMINATION BY MR. LITTLETON:

Mr. Fletcher was Commissioner of Labor during 1918. I cannot be sure that Mr. Fletcher said to me, when I mentioned the fact of the expenditures in the Newberry campaign, that as a matter of fact he did not know, and did not care, how much Newberry spent; that Ford spent eight times as much as Newberry did. I think there was some reference to Mr. Ford's expenditures, but I do not recollect just what it was. I would not care to say that Mr. Fletcher did not say that.

The Government here offered in evidence a paper marked "Government Exhibit No. 60," the same being a certified copy of the report of receipts and expenditures of Frank W. Blair, Treasurer of the Truman H. Newberry Senatorial Committee, which was filed in the office of the County Clerk of the County of Wayne, Michigan, September 6, 1918, purporting to set forth a detailed statement of expenses, disbursements and receipts and unpaid debts or obligations.

MR. LITTLETON: We object to the introduction of Exhibit 60, upon the grounds which have heretofore been suggested, in reference to other testimony, but which I ask leave to state the basis of; upon the ground that it does not appear from Exhibit 60 that any of the money which is shown to have been contrib-

uted was either contributed, nor does the evidence show that it was caused to be contributed, by the defendant, Truman H. Newberry: but the report, upon the contrary, discloses that it was contributed by others than Truman H. Newberry, and that there is no evidence justifying the introduction of the report upon any ground that he caused it to be contributed, which is the language of the indictment, and of the Act; upon the further ground that the report as to its contents would not be legal proof against any of the accused persons in this indictment, as to the statements contained in it. Some of the accused persons will appear as contributors upon this report. There will be other items in the report which may refer to acts of the accused persons with reference to expenditures. I make the point that the report itself would not be proof of the doing of those acts; and also upon the ground that under the Act, and under the indictment, with reference to the conspiracy to expend or cause to be expended, through and by Truman H. Newberry, more than the law permitted, as to the primary election, the report would not be probative of that, because the allegation in the indictment ends with the 27th of August, and the report appears to have been made on September 6th. Also that the report would not be admissible under the fifth count in the indictment, because that relates to a period between October 16th and November 5th, 1918.

THE COURT: The objection will be overruled.

MR. LITTLETON: An exception.

Government's Exhibit No. 60 was thereupon read in evidence, as follows:

GOVERNMENT EXHIBIT NO. 60

Detailed statement of expenses, disbursements and receipts of the Truman H. Newberry Senatorial Committee.

STATE OF MICHIGAN, }
COUNTY OF WAYNE. } ss.

To the County Clerk of the County of Wayne:

In accordance with Act 109 of the Public Acts of 1913, I, Frank W. Blair, Treasurer of the Truman H. Newberry Senatorial Committee, which Committe was organized to promote the candidacy of Truman H. Newberry for nomination to the office of United States Senator on the Republican Ticket at the primary election held on the 27th day of August, 1918, in the State of Michigan, hereby submit the following detailed statement of disbursements and receipts and unpaid debts or obligations. Disbursements as per accompanying statement:

advertising and other publicity	$147,860.16
ce expenses including rent, furniture, light and lerk hire	9,070.13
ephone, telegraph and other charges	1,514.14
veling expenses	9,104.52
oying of election registers and canvassing the oters	4,875.38
aries and compensation not otherwise charged	4,143.75
lal	$176,568.08

ADVERTISING AND OTHER PUBLICITY

troit News—Advertising, per Campbell-Ewald Co.		$ 2,582.57
troit Free Press—Advertising, per Campbell-Ewald Co.		1,132.43
troit Journal— Advertising, per Campbell-Ewald Co.		612.36
troit Saturday Night—Advertising, per Campbell-Ewald Co.		390.60
oldwater Sun & Star	Advertising	24.70
astings Banner	"	60.25
angor Gazette	"	3.65
inconning Press	"	20.90
araga Journal	"	23.45
errien Co. Journal	"	62.40
iles Daily Star	"	23.37
rairieville Press	"	7.00
ews Palladium Co.	"	48.93
Vatervliet Record	"	29.12
Woodland News	"	18.28
L'Anse Sentinel	"	21.02
Commercial-Record	"	11.28
Benzie Co. Patriot	"	35.25
Freeport Herald	"	29.65
Benzie Record	"	20.72
St. Joseph Herald-Press	"	47.20
Bay City Times-Tribune	"	31.30
Hastings Journal-Herald	"	43.00
Benzie Co. Leader	"	33.60
Berrien County Record	"	52.36
Carpenter-Scheerer Company	"	11.87
Campbell-Ewald Company	"	13.99
Sztandar Polski	"	73.15
Quincy Herald Co.	"	26.44

Thompsonville News	Advertising	$	23.20
Banner Pub. Co.	"		3.08
Coloma Courier	"		35.35
Era Publishing Co.	"		34.83
Bay City Democrat	"		89.60
Coldwater Reporter	"		11.13
Register-Weekly	"		43.08
The Upper Peninsula Farmer	"		19.50
Middleville Sun	"		20.10
Industrial Herald	"		25.00
Hopkins Leader	"		31.66
Sand Lake Herald	"		18.25
Michigan Tradesman	"		216.88
West Side News	"		86.83
Grand Rapids Herald	"		200.60
Grand Rapids Press	"		341.37
The Observer	"		63.00
The Chronicle	"		55.13
Northwestern Weekly	"		37.10
Creston News	"		70.35
Grand Rapids News	"		407.25
The Fruit Belt	"		299.00
"De Huisvriend"	"		56.60
Caledonia News	"		32.69
Progressive Publishing Co.	"		57.15
Sentinel-Leader Pub. Co.	"		3.98
Lowell Ledger	"		35.10
Rockford Register	"		32.21
Cedar Springs Liberal	"		23.90
Echo Publishing Co.	"		61.20
DeHollandsche Farmer	"		65.80
Grandville Star	"		35.40
Christian Journal	"		118.60
Grand Rapids Times	"		47.00
Grand Rapids Standard	"		43.75
Bulletin Printing Co.	"		83.20
South End Weekly Sun	"		20.25
Lowell Journal	"		16.40
Alto Weekly Solo	"		23.40
Omer Progress	"		15.75
The National Democrat	"		22.10
The Cassopolis Vigilant	"		33.00
The Tekonsha News	"		20.65
The Clinton Republican	"		13.13

Homer Index	Advertising	$	36.00
Marcellus News	"		35.35
Moon Journal Publishing Co.	"		101.31
Dowagiac Daily News	"		36.45
The Clare Sentinel	"		16.56
The Athens Times	"		13.75
The Maple Rapids Dispatch	"		22.75
Cheboygan Democrat	"		17.52
The Morning Enquirer	"		82.80
The Charlevoix Courier	"		9.23
The Soo Times	"		6.45
The Crawford Avalanche	"		20.42
The Charlevoix County Herald Publishing	"		23.50
The Albion Recorder	"		19.32
The Argus	"		7.10
The Albion Leader	"		12.20
The Cheboygan Bailey Tribune Co	"		32.40
The St. Johns News	"		27.80
East Jordan Enterprise	"		23.00
The Clare Courier	"		37.35
Salt News Printing Co.	"		32.85
The Boyne Citizen	"		34.87
Clare County Cleaver	"		34.50
The Wolverine Courier	"		15.25
The Elsie Sun	"		57.50
The Evening Chronicle	"		33.69
The Chronicle—Grand Rapids	"		3.50
Marshall News Statesman	"		17.75
Medborgaren	"		64.80
Tom A. Hanna—Iron Mountain Press	"		25.20
The Escanaba Morning Press	"		62.00
The Delta County Reporter	"		20.48
The Daily Tribune Gazette	"		29.90
The Rapid River News Printery	"		34.80
The Escanaba Journal	"		27.63
The Daily Mirror	"		73.90
Detroit Photo Engraving Co.	"		300.20
The Pellston Journal	"		28.02
The Republican & Graphic	"		36.53
The Levering Local	"		33.04
The Churchill Printing Co.	"		36.18
The Grand Ledge Times	"		29.38
The Journal Pub. Co., Eaton Rpds.	"		33.00

Grand Ledge Independent	Advertising	$	29.77
The Vermontville Echo	"		25.11
The Sunfield Sentinel	"		23.05
The Eaton Rapids Review	"		36.15
The Charlotte Tribune	"		37.38
The Dimondale News	"		46.70
The Bellevue Gazette	"		34.96
The Charlotte Republican	"		54.97
The Charlotte Leader	"		48.40
The Mullikin Press	"		18.00
Owendale Herald	"		27.90
Hillsdale Leader	"		8.10
The North Adams Advocate	"		17.64
The Pittsford Reporter	"		28.26
The Camden Advance	"		23.10
The Port Austin News	"		29.12
The Litchfield Gazette	"		21.90
Keweenaw Printing Co.	"		24.25
The Montgomery Record	"		17.01
The Kinde Visitor	"		18.48
The Finnish Printing Co.	"		79.60
The Grand Traverse Sun	"		23.45
The Flint Daily Journal	"		55.86
Traverse City Record-Eagle	"		144.89
The Montrose Record	"		34.88
The Fenton Courier	"		62.75
Gratiot Co. Herald	"		17.50
The St. Louis Leader	"		37.25
The Alma Journal	"		44.70
The Fenton Independent	"		838.67
The Flint Daily Journal	"		58.44
The Gothic Press	"		28.75
The Herald Publishing Co.	"		13.90
The Grand Rapids News	"		100.00
The Grand Rapids Standard	"		5.25
The Breckenridge American	"		32.85
The Clio Messenger	"		34.21
Gladwin County Record	"		33.20
The Linden Leader	"		24.00
The Flushing Observer	"		20.70
Ironwood News-Record Pub. Co.	"		2.00
The Riverdale Promoter	"		15.36
The Davison Index	"		23.40
The Beaverton Clarion	"		45.40

The Alma Record	Advertising	$	42.57
The Wakefield Advocate	"		22.80
The Dann Printing & Pub. Co.	"		45.66
The Dann Printing & Pub. Co.	"		14.55
Bannor Publishing Co. Belding	"		12.54
Courier Publishing Co.	"		26.50
Kingston Enterprise	"		25.07
The Gies Printing Co.	"		35.18
The Unionville Crescent	"		23.00
Tuscola County Advertiser	"		58.50
Cass City Chronicle	"		14.25
The Gagetown Times	"		28.91
Vassar Pioneer Times	"		47.20
The Akron Leader	"		24.37
Cass City Chronicle	"		19.13
Courier Publishing Co.	"		10.13
The Mayville Monitor	"		24.15
Paw Paw Free Press & Courier	"		14.05
Bloomingdale Leader	"		17.12
Paw Paw True Northerner	"		40.19
The Bangor Gazette	"		64.55
South Haven Tribune	"		27.90
The Chelsea Tribune	"		8.52
The Globeville News	"		13.70
Vicksburg Semi-Weekly	Commercial Advertising		33.25
Advocate Pub. Co.	"		116.50
Kalamazoo Herald	"		55.60
Dalm Printing Co.	"		52.15
Crescent Pub. Co.	"		26.20
J. W. De Veny—Augusta Beacon	"		36.08
Kalamazoo Gazette	Advertising		72.00
Kalkaska Pub. Co.	"		42.20
Semi-Weekly Argus	"		30.10
Schoolcraft Express	"		26.58
Kalamazoo Gazette	"		53.25
Angelus Pub. Co.	"		55.50
Wayland Globe	"		18.30
Marshall News Statesman	"		20.38
Medborgaren	"		5.40
LeCourrier Du Michigan	"		7.00
Hillsdale Leader	"		11.40
News Printing Co.	"		6.30
Mont Pleasant Times	"		2.94
Rockford Register	"		2.52

Northwestern Weekly	Advertising	$	4.20
West Side News	"		3.50
The Times Grd. Rapids	"		68.75
Richmond Review	"		2.10
Wm. White Printing Co.	"		1.68
The Odd Fellow	"		11.50
Midland Republican	"		10.20
Rose City Review	"		1.40
Roscommon Herald-News	Republican		42.02
Mesick Sun-Pioneer	"		14.00
Times-News Co.	"		35.50
Washtenaw Post	"		17.75
The Lawrence Times	"		29.11
The Hartford Day Spring	"		35.55
The Bangor Advance	"		33.50
The Lawton Leader	"		35.18
The Vermontville Echo	"		2.52
The Utica Sentinel	"		2.10
United Weekly Press Assn.	"		2.10
Manchester Enterprise	"		32.95
Ann Arbor Times-News	"		33.25
Willis Times	"		22.85
The Dexter Leader	"		21.70
The Chelsea Tribune	"		9.54
Washtenaw Post	"		43.00
The Milan Leader	"		44.90
The Chelsea Standard	"		35.70
The Ypsilanti Press	"		47.00
The Ypsilanti Press	"		35.25
The Manton Tribune-Record	"		24.60
The Manton Tribune Record	"		10.65
Mesick Sun-Pioneer	"		6.40
Cadillac Evening News	"		27.70
Highland Park News	"		66.17
F. E. Van Black	"		341.80
Hamtramck News			
North End Journal			
Ferndale News			
Greater Detroit Westward			
Hamilton Boulevard News			
Contractor Publishing Co.	Advertising		192.08
Chelsea Tribune	"		9.96
West Detroit Times	"		82.20
The Redford Record Co.	"		32.93

Portland Observer,	Advertising	$	58.64
Isabella County Republican	"		34.81
Williamston News	"		19.05
Clarksville Record	"		8.88
Advertiser, Saranac	"		35.85
Isabella County Enterprise	"		45.00
Ionia Sentinel	"		10.50
Weidman Messenger	"		14.08
Springport Signal	"		22.30
Jackson County Patriot	"		195.51
Concord Independent	"		15.00
Brooklyn Exponent	"		33.75
Grass Lake News	"		35.55
The Square Deal	"		104.25
Parma News	"		32.23
Hanover-Horton Local	"		30.36
Saturday Evening Star	"		50.10
Mancelona News	"		16.56
Bellaire Publishing Co.	"		23.05
Augusta Beacon	"		2.10
Alpena News	"		27.20
Elk Rapids Progress	"		20.63
Akron Leader	"		10.65
Alcona County Review	"		26.90
Allegan News	"		53.80
Wood Gibson Co.	"		43.35
Mancelona Herald	"		23.20
Cloverland Farmer	"		58.88
Commercial Record	"		16.50
Allegan Gazette	"		46.90
Arenac County Independent	"		313.40
Albion Leader	"		7.00
Wayland Globe	"		10.35
Fennville Herald	"		38.44
Okaubeckk Enterprise	"		23.35
Mendon Globe-Leader	"		27.66
Commercial Printing Co.	"		22.90
Birch Run Leader	"		18.75
Yale Record	"		35.25
Yale Expositor	"		34.67
Freeland Star	"		20.54
Byron Herald	"		34.96
Perry Journal	"		23.40
New Lothrop Globe	"		21.66

Courier Printing Co. Algonac	Advertising	$	47.00
Courier-Herald, Saginaw	"		73.32
Sturgis Daily Journal	"		27.00
Square Deal, Jackson	"		7.00
Minden City Herald	"		48.90
Three Rivers Publishing Co.	"		18.62
Frankenmuth News	"		33.82
White Pigeon News	"		38.90
Constantine Advertiser-Record	"		22.40
Saginaw Journal	"		63.25
Marlette Leader	"		42.60
Capac Journal	"		18.26
Chesaning Argus	"		46.70
Chesaning Monitor	"		31.93
Port Huron Times-Herald	"		268.50
Workers Voice	"		51.60
Sanilac County Times	"		96.25
Lennon News Times	"		27.12
Merrill Monitor	"		46.00
Burr Oak Acorn	"		34.65
The Resorter	"		10.00
Postmaster Everywhere	"		141.75
Sandusky Tribune	"		44.20
St. Clair Republican	"		47.00
New Lathrop News	"		27.12
Manistique Pioneer-Tribune	"		27.60
Laingsburg News	"		32.62
Carsonville Journal	"		37.03
St. Clair County Press	"		28.31
Chesterville Observer	"		23.05
Durand Express	"		35.04
Marine City Reporter	"		35.47
Hemlock News	"		47.10
Croswell Jeffersonian	"		46.60
Sanilac County Republican	"		58.13
Gero Publishing	"		28.40
Colon Express	"		6.90
Lexington News	"		28.65
Sentinel Publishing Co.	"		27.37
St. Joseph Herald-Press	"		19.80
Slovenian News Publishing Co.	"		12.88
Saginaw Press	"		34.78
Corunna News	"		27.22
Social Moose	"		164.00

Polish Daily News	Advertising	$	114.00
Michigan Christian Advocate	"		99.40
Detroit News	"		2.20
Detroit Labor News	"		321.00
Manufacturer Publishing Co.	"		388.50
Ogeliske Domowa Publishing Co.	"		126.60
Donga A. Garabonclas-Hungarian Dongo	"		87.50
Polonia Publishing Co.	"		268.00
The Russian Life	"		199.00
The Wayne Weekly	"		12.78
State Review Publishing Co.	"		67.50
The Gateway Publishing Co.	"		63.00
The News Retailer	"		43.50
The Oddfellow	"		25.00
The North End Journal	"		91.88
Dispatch Printing Co.	"		106.00
Hamilton Blvd. News	"		58.28
Wyandotte Herald	"		28.95
The Little Stick	"		90.75
The Belgian Press	"		42.00
The Belleville Enterprise	"		22.85
Detroit Courier Publishing Co.	"		305.56
The Ferndale News	"		102.38
Trenton Times & List	"		52.87
Ecores Weekly Review	"		40.10
Highland Park Times	"		233.00
Michigan Investor Publishing Co. Ltd.	"		262.12
St. Clair Heights Enterprise	"		88.69
Dean River Suburbanite	"		108.50
The Catholic Vigil	"		92.00
The Cleaver	"		479.15
Magyar Hirlop	"		116.00
The Romulus Roman	"		23.20
The Northwestern Review	"		73.00
Michigan Business Farming	"		329.60
The Inside American	"		200.00
The Michigan Catholic	"		235.00
Detroit Times	"		1,400.86
The Pathfinder	"		30.00
Detroit Leader	"		71.00
Detroit Legal News	"		235.00
The Westward News	"		16.00

Michigan Christian Advocate	Advertising	$	172.20
Relief Signal, Muskegon, (Extra Copies)	"		250.00
The Reading Hustler	"		23.60
The Ubly Courier	"		15.00
News Printing Co.—Harbor Beach	"		7.10
The Sebewaing Blade	"		28.08
Native Cooper Times	"		23.35
Harbor Beach Times	"		28.57
Huron County Review	"		27.80
The Pigeon Progress	"		34.20
Le Courrier Du Michigan	"		18.20
The Miner Publishing Co.	"		104.50
Slovenian News Publishing Co.	"		22.10
The Finnish Republican	"		236.00
Aura-Houghtch	"		112.80
American Suometer	"		76.00
Huron County Tribune	"		55.57
The Mining Gazette	"		51.45
The Pewamo Weekly News	"		57.50
The H. A. Thompson Co. Williamston Enterprise	"		36.08
Banner Publishing Co.	"		18.04
The Palo Post	"		22.90
The Clarksville Record	"		20.20
The Local Republican—Leslie—Advertising			62.25
The Diamond Drill	"		18.91
The Portland Review	"		46.70
The Oscoda & Au Sable Press	"		30.00
The Stockbridge Brief-Sun—	"		23.40
The Crescent Pub. Co. Climax	"		19.20
The Tawas Herald	"		34.90
Iron River-Stambaugh Reporter	"		35.25
Otsego County Herald & Times	"		48.50
Otsego County Advance	"		26.80
The Otsego Union	"		32.60
The Courier-Tribune—Hart	"		17.30
The Hart Journal	"		34.75
The Meare News	"		1.65
The Oceana Herald	"		38.20
The Pentwater News	Advertising		13.10
The Hesperia Union	"		23.35
The Review Pub. Co.—Orion	"		64.[illegible]
The Times Printing House—Milford	"		34.[illegible]

The Rochester Clarion	Advertising	$	14.00
Royal Oak Tribune	"		46.60
The Rochester Era	"		30.30
The Holly Herald	"		24.40
The Pontiac Press Gazette	"		67.48
The Rochester Clarion	"		32.40
The Birmingham Eccentric	"		21.58
The South Lyon Herald	"		23.20
The Holly Advertiser	"		23.25
The Farmington Enterprise	"		35.60
Osceola County Herald	"		27.50
Northern Osceola Press	"		35.03
The Tustin Times	"		48.80
The Evart Weekly Review	"		32.64
Ontonagon Herald Co.	"		21.15
The Rockland Reporter	"		13.45
The Cloverland Press	"		9.00
Rose City Review	"		22.05
Sentinel Pub. Co., Holland	"		90.63
DeHope Pub. Co.	"		25.00
Holland City News	"		80.87
Grand Haven Daily Tribune	"		11.20
The Zeeland Record Co.	"		39.51
The Coopersville Sun	"		16.32
Coopersville Observer	"		33.45
The Little Stick	"		146.70
Northport Leader	"		7.00
Hudson Gazette	"		49.90
Hudson Post	"		49.00
Addison Courier	"		24.75
Blissfield Advance	"		32.25
Semi-Weekly Herald, Tecumseh	"		35.40
Adrian Daily Telegram	"		96.71
Deerfield Times-Journal	"		46.60
Morenci Observer	"		20.40
Bradley Press	"		27.90
Clinton Local	"		33.23
Onstead News	"		28.44
Clarion Publishing Co.	"		54.24
Newberry News	"		8.00
Pinckney Dispatch	"		36.90
Republican Howell	"		37.20
Brighton Argus	"		15.00
Columbianville Home News	"		26.10

Gazette, North Branch	Advertising	$	32.63
Luther Printing Co.	"		23.25
Lake County Star	"		21.25
Almont Herald	"		27.67
Provemount Courier	"		23.20
Empire Journal	"		23.40
Mount Pleasant Times	"		39.06
Index, Webbersville	"		21.30
State Journal, Lansing	"		139.80
Ingham County News	"		39.50
Lyons Herald	"		58.50
Standard Publishing Co.	"		19.14
Isabella County Courier	"		20.33
Press—Barryton	"		23.80
Evening News—Monroe	"		35.40
Times—Carleton	"		35.12
Reporter—Dundee	"		35.10
Sun—Petersburg	"		35.40
Enterprise—St. Ignasz	"		34.71
Republican News—St. Ignace	"		23.60
Enterprise—Scottsville	"		12.78
Journal—Lewiston	"		23.10
Daily News—Ludington	"		56.64

ADVERTISING AND OTHER PUBLICITY

Montmorency Co. Herald & Tribune, Hillman	Advertising	$	53.25
Chronicle—Marquette	"		46.80
Iron Herald—Negaunee	"		28.14
Superior Posten—Ishpeming	"		46.00
Record—Ishpeming	"		58.00
Iron Ore—Ishpeming	"		57.51
Daily Mining Journal—Marquette	"		59.75
Independent—Coleman	"		32.62
Republican—Midland	"		25.43
Advocate—New Haven	"		23.15
Monitor—Mt. Clemens	"		64.00
Daily Leader—Mt. Clemens	"		33.45
Standard—Lennox	"		8.60
Review—Richmond	"		32.70
Era—New Baltimore	"		23.15
Bee—Memphis	"		18.52
Sentinel—Utica	"		32.85
Watchman—Warren	"		23.55

Observer—Romeo	Advertising	$	45.90
Times-Graphic—Armada	"		22.70
American—Mt. Clemens	"		2.10
Times—Edmore	"		25.50
News—Coral	"		46.60
Clipper-Herald—Stanton	"		25.18
Record—Howard City	"		45.80
Review—McBride	"		29.25
Mail—Crystal	"		22.95
Advertiser—Sheridan	"		23.30
Progress—Copemish	"		19.75
The Keddiprint Papers—Bear Lake	"		59.41
News-Advocate—Manistee	"		58.88
Cloverland Magazine—Menominee	"		32.00
Journal—Stephenson	"		20.40
Powers-Spaulding Tribune-Powers	"		45.00
Herald Leader—Mencainee	"		54.90
Plaindealer—Lake City	"		15.70
Chronicle—McBain	"		22.73
Republican—Missaukee	"		23.30
Forum—Whitehall	"		23.53
Herald—Casnovia	"		18.08
Times—Ravenna	"		47.00
Enterprise—Conklin	"		32.80
Observer—Montague	"		23.50
Chronicle—Muskegon	"		35.91
Pioneer—Big Rapids	"		46.80
Journal—Morley	"		27.20
Newso—Mecosta	"		21.95
Herald & Independent—Grant	"		23.60
Republican—Newaygo	"		20.78
Eagle—White Cloud	"		19.74
Times-Indicator—Fremont	"		10.65
Outlook—Onaway	"		27.42
Dispatch—Pinckney	"		5.75
Mail—Plymouth	"		22.35
Presque Isle Co. Advance—Rogers City	"		20.40
Michigan Farmer	"		1,596.31
River Rouge Herald	"		81.73
Dearborn Independent	"		58.13
Vannatter Printing Co.	"		115.00
Kuryer Publishing Co.	"		58.80
Michigan Bulletin	"		53.50

Jewish Chronicle	Advertising	$	291.69
Detroit Northern Review	"		115.25
La Tribuna Italiana	"		69.50
Italian Weekly	"		135.50
Western Newspaper Union	"		4,341.76
Thomas M. y—Cartoons	"		375.00
Sprunk Engraving Co.	"		94.60
The Gleaner	"		368.00
Western Newspaper Union	"		1,956.59
Italian Pub. Co.	"		58.50
Magyar Hirlap	"		55.00
Russian Life	"		140.00
Miner Pub. Co.	"		17.50
Clare Sentinel	"		14.40
Benzie Banner	"		14.32
Benzie Record	"		14.32
Three Rivers Pub. Co.	"		13.44
Clinton Republican	"		20.90
St. Johns News	"		19.60
Decatur Rpeublican	"		32.86
Moon Journal Pub. Co.	"		72.57
Isabella County Courier	"		12.88
Marshall News-Statesman	"		24.25
Quincy Herald Co.	"		4.92
Vermontville Echo	"		27.12
Saginaw Press	"		17.28
Deckerville Record	"		47.00
The People	"		26.10
Evening Chronicle	"		24.12
Semi-Weekly Argus	"		16.60
Vicksburg Semi-Weekly Commercial	"		17.50
William B. Welle—The Daily Call	"		20.40
Fowlerville Review	"		22.05
The Ionia Sentinel	"		24.45
Traverse City Record-Eagle	"		90.78
Iosco County Gazette	"		29.10
Millington Gazette	"		34.92
Grand Rapids Herald	"		135.10
Oxford Leader	"		29.75
Alcona County Herald	"		31.30
Times News Co.	"		40.50
Dalm Printing Co.	"		22.40
Brighton Argus	"		8.30
LaTribuna Italiana	"		33.00

Plymouth Mail	Advertising	$	12.30
Birmingham Eccentric	"		14.25
Freeland Star	"		14.32
Midland Pub. Co.	"		33.90
Lapeer County Press	"		61.00
Worker's Voice	"		148.80
Newberry News	"		39.75
Sentinel Leader Pub. Co.	"		47.96
Indicator Pub. Co.	"		162.50
Otsego County Advance	"		19.30
The Argus	"		16.10
McBain Chronicle	"		12.45
Free Press & Courier	"		9.60
Pontiac Press Gazette	"		54.32
Montgomery Record	"		12.12
Colon Express	"		17.20
Times Ptg. Co.—Grand Rapids	"		35.03
John Lignian, The Olivet Optic	"		57.38
Bay City Times	"		56.15
Presque Isle County Advance	"		48.55
De Hose Pub. Co.	"		9.20
The Reporter	"		22.26
The Journal	"		10.60
Superior Posetn	"		19.00
Delta County Reporter	"		12.60
Osceola County Herald	"		19.20
Fairgrove Enterprise	"		26.20
St. Charles Union	"		32.63
Albion Recorder	"		13.37
Newaygo Republican	"		14.70
White Cloud Eagle	"		11.63
Mason County Enterprise	"		23.03
Muskegon Chronicle	"		102.69
Churchill Prtg. Co.	"		14.40
Saginaw News-Courier	"		65.51
The Observer	"		51.50
Grand Rapids Standard	"		4.37
Morning Enquirer	"		58.50
The Soo Times	"		14.71
Cheboygan Democrat	"		8.16
Herald Times & Ogemaw Repub.	"		48.60
Charlotte Tribune	"		20.88
Jonesville Independent	"		22.00
Owosso Argus-Press	"		48.40

Constantine Advertiser-Record	Advertising	$	12.60
Niles Daily Sun	"		41.54
Sturgis Daily Journal	"		19.40
Cadillac Evening News	"		19.20
The Current	"		43.90
Churchill Printing Co.	"		8.30
Trenton Times & List	"		33.95
Apel-Campbell Co.	"		35.01
Detroit Photo Eng Co.	"		9.10
Everton Engraving Co.	"		2.79
Mich. Electrotype & Stereotype Co.	"		16.36
Western Newspaper Union	"		1,627.46
Clerical work in connection with newspaper advertising, per B. F. Emery and Harry O. Turner, Assistant Secretaries			3,597.10
Newspaper and general advertising expenses, county committees, per Charles A. Floyd, Secretary			558.92
James F. McGregor, Assistant Secretary			47.60
James E. Davis			2.60
B. F. Emery			68.25
E. V. Chilson			23.50

ADVERTISING AND OTHER PUBLICITY

Expenses of Publicity Department in connection with newspaper advertising, per H. A. Hopkins, Director of Publicity		$	5,806.25
Charles P. O'Neil	Public Speaking		299.60
Roy Herald	"		90.00
Frank P. Hinks	"		10.00
Louis Cohane	"		87.48
Clerical work in connection with Speakers' Bureau, per B. F. Emery and Harry O. Turner, Assistant Secretaries			1,789.55
Expense of Publicity Department in connection with Speakers' Bureau, per H. A. Hopkins, Director of Publicity			285.00
Expense of Assistant Secretaries in connection with Speakers' Bureau, per Harry O. Turner and B. F. Emery, Assistant Secretaries			1,987.50
Jonesville Independent, Newspaper Subscription			1.25
Saginaw Evening News	" "		3.00
Elk Rapids Progress	" "		1.50
State Journal	" "		1.00

Birmingham Eccentric Newspaper Subscription			.....$	1.00
Battle Creek Evening News	"	"	.....	2.10
Mesick Sun	"	"	.....	1.50
Bangor Gazette	"	"	.....	1.00
Telegram News	"	"	.....	1.50
Cloverland Farmer	"	"	.....	2.00
Munising News	"	"	.....	1.50
Soo Evening News	"	"	.....	3.50
Dean Publishing Co.	"	"	.....	2.00
Iron Mountain Gazette	"	"	.....	5.00
Ann Arbor News	"	"	.....	2.00
Ludington Daily News	"	"	.....	4.00
Marquette Chronicle	"	"	.....	3.00
Scottsville Enterprise	"	"	.....	1.00
Clare Sentinel	"	"	.....	.25
Michigan W. C. T. U.	"	"	.....	1.25
Lewiston Journal	"	"	.....	1.25
Montague Observer	"	"	.....	1.25
News Record (Ironwood)	"	"	.....	2.00
Manistique Tribune	"	"	.....	2.00
Hamtramck News	"	"	.....	1.00
Missaukee Republican	"	"	.....	1.00
Cadillac News	"	"	.....	3.00
Marine City News	"	"	.....	1.00
Byron Herald	"	"	.....	1.00
Coleman Independent	"	"	.....	1.00
Chelsea Standard	"	"	.....	1.00
Addison Courier	"	"	.....	1.00
Zeeland Record	"	"	.....	1.50
Finnish Lutheran	"	"	.....	1.00
Midea City Herald	"	"	.....	1.50
Huron County Review	"	"	.....	1.50
Hastings City Journal	"	"	.....	1.50
Bear Lake Beacon	"	"	.....	1.50
Rose City Review	"	"	.....	1.25
Weekly Chronicle	"	"	.....	1.00
Romulus Roman	"	"	.....	1.00
St. Clair Press	"	"	.....	1.00
Memphis Bee	"	"	.....	1.50
Port Huron Herald	"	"	.....	1.50
Stockbridge Sun	"	"	.....	1.25
White Cloud Eagle	"	"	.....	1.50
Lennox Standard	"	"	.....	1.00
Paw Paw Free Press	"	"	.....	1.25

Springport Signal	Newspaper Subscription		.....	$ 1.25
Marquette Mining Journal	"	"	.....	4.75
Richmond Review	"	"	.....	1.50
Leslie Republican	"	"	.....	1.25
Levering Local	"	"	.....	1.25
Reading Hustler	"	"	.....	1.00
Mount Clemens Leader	"	"	.....	2.00
Deskerville Recorder	"	"	.....	1.50
Manistee Advocate	"	"	.....	3.00
The Watchman	"	"	.....	1.00
Chelsea Tribune	"	"	.....	1.00
Owosso Argus Press	"	"	.....	2.50
Pinconning Press	"	"	.....	1.00
Williamston News	"	"	.....	1.00
Orion Review	"	"	.....	1.50
Down River Suburbanite	"	"	.....	2.00
Rochester Era	"	"	.....	1.00
Dowagiac Daily News	"	"	.....	3.00
Coopersville Observer	"	"	.....	1.00
Morenci Observer	"	"	.....	1.50
Camden Advance	"	"	.....	1.00
Schoolcraft Express	"	"	.....	1.15
Unionville Crescent	"	"	.....	1.50
Berrien County Journal	"	"	.....	2.00
Romeo Observer	"	"	.....	1.50
Colon Express	"	"	.....	1.25
Hanover Local	"	"	.....	1.25
Highland Park Times	"	"	.....	1.50
Omer Progress	"	"	.....	1.00
Saranac Observer	"	"	.....	1.00
Rockford Register	"	"	.....	1.50
Chesaning Observer	"	"	.....	1.25
Decatur Republican	"	"	.....	1.50
Lawrence Times	"	"	.....	1.50
Howard City Record	"	"	.....	2.00
Sanilac County Times	"	"	.....	1.50
Ogemaw Republican	"	"	.....	1.25
Jackson Press	"	"	.....	2.50
South Haven Tribune	"	"	.....	1.50
Cass City Chronicle	"	"	.....	1.50
Ypsilanti Record	"	"	.....	1.50
Rochester Clarion	"	"	.....	1.00
Charlevoix Courier	"	"	.....	1.50
Berrien Springs Era	"	"	.....	1.50

Middleville Sun	Newspaper Subscription		.....	$ 1.50
Davison Index	"	"	.....	1.50
Sturgis Journal	"	"	.....	2.00
Onaway Outlook	"	"	.....	3.25
St. Joseph Herald	"	"	.....	1.50
East Tawas Herald	"	"	.....	1.50
Coral News	"	"	.....	1.00
Grand Haven Tribune	"	"	.....	2.00
Grand Ledge Independent	"	"	.....	1.13
Grand Ledge Times	"	"	.....	1.00
Grand Rapids News	"	"	.....	3.00
Albion Leader	"	"	.....	1.00
Chesaning Argus	"	"	.....	1.00
Waldron Recorder	"	"	.....	1.00
Vermontville Echo	"	"	.....	1.25
Yale Expositor	"	"	.....	1.50
Isabella Enterprise	"	"	.....	1.00
Montrose Record	"	"	.....	1.00
Crescent Publishing Co.	"	"	.....	1.50
White Pigeon News	"	"	.....	1.50
Courier Herald	"	"	.....	3.00
Escanaba Journal	"	"	.....	2.00
Charlotte Republican	"	"	.....	1.50
Manchester Enterprise	"	"	.....	1.50
Hudson Post	"	"	.....	1.50
Newaygo Republican	"	"	.....	1.50
Eaton Rapids Review	"	"	.....	1.50
Bellevue Gazette	"	"	.....	1.25
Oliver Optic	"	"	.....	1.00
Frankenuth News	"	"	.....	1.00
Croswell Jeffersonian	"	"	.....	1.50
Alam Record	"	"	.....	1.50
St. Ignace Enterprise	"	"	.....	1.00
Holland City News	"	"	.....	1.00
Holland Sentinel	"	"	.....	3.00
Almont Herald	"	"	.....	1.00
Recorder Press	"	"	.....	2.50
Sentinel Leader—Sparta	"	"	.....	1.50
Kalamazoo Advocate	"	"	.....	1.00
Owosso Times	"	"	.....	1.50
Sandusky Tribune	"	"	.....	1.50
Ingham County News	"	"	.....	1.25
Milan Leader	"	"	.....	1.50
Boyne City Citizen	"	"	.....	1.50

North End Journal	Newspaper Subscription		.....	$ 1.00
Dundee Reporter	"	"	.....	1.50
Leader Press	"	"	.....	2.00
Midland Sun	"	"	.....	1.50
Fowlerville Review	"	"	.....	1.50
Bay City Times	"	"	.....	3.00
Homer Press	"	"	.....	1.00
Allegan Gazette	"	"	.....	1.00
McBride Review	"	"	.....	1.00
Walkerville News	"	"	.....	1.00
Lake View Enterprise	"	"	.....	1.50
Edmore Times	"	"	.....	1.25
Grand Rapids Press	"	"	.....	4.00
New Haven Advocate	"	"	.....	1.00
Otsego Union	"	"	.....	1.00
Howell Republican	"	"	.....	1.50
Plain Dealer—Lake City	"	"	.....	1.00
Reed City Herald	"	"	.....	1.50
Williamston Enterprise	"	"	.....	1.25
Caledonia News	"	"	.....	1.50
Commercial Record	"	"	.....	1.00
Arenac Co. Independent	"	"	.....	1.25
Lowell Ledger	"	"	.....	2.10
Grand Rapids Herald	"	"	.....	6.00
Thompsonville News	"	"	.....	1.00
Weidman Messenger	"	"	.....	1.00
Lake Odessa Wave	"	"	.....	1.50
Lawton Leader	"	"	.....	1.50
Trustin Times	"	"	.....	1.50
White Cloud Star	"	"	.....	1.00
Flint Labor News	"	"	.....	1.50
Lapeer Clarion	"	"	.....	1.50
Lyons Herald	"	"	.....	1.50
Monroe Courier	"	"	.....	2.25
Semi-Weekly Argus	"	"	.....	1.50
Big Rapids Pioneer	"	"	.....	2.50
Battle Creek Enquirer	"	"	.....	1.50
Mich. Christian Advocate	"	"	.....	1.50
Grand Haven Journal	"	"	.....	.85
Ecorse Weekly Review	"	"	.....	2.00
Wyandotte Record	"	"	.....	2.00
Isabella County Republican	"	"	.....	1.00
Cheboygan Democrat	"	"	.....	1.00
Ousted News	"	"	.....	1.00

Empire Journal	Newspaper Subscription		..... $	.80
Bangor Advance	"	"	.....	1.20
Kalamazoo Gazette	"	"	.....	5.00
Pittsford Reporter	"	"	.....	1.25
Alcona Co. Herald	"	"	.....	1.25
Iron Mountain Press	"	"	.....	2.00
Pontiac Gazette	"	"	.....	3.00
Edwardsburg Gazette	"	"	.....	1.50
Mayville Monitor	"	"	.....	1.50
Berrien County Record	"	"	.....	1.50
Mining Gazette	"	"	.....	5.00
Gagetown Times	"	"	.....	1.50
Laingsburg News	"	"	.....	1.50
Mining Gazette	"	"	.....	6.00
Nashville News	"	"	.....	1.25
Presque Isle Advocate	"	"	.....	1.50
Gratiot County Herald	"	"	.....	1.50
Concord Independent	"	"	.....	1.50
Grass Lake News	"	"	.....	1.50
Herald—Bessemer	"	"	.....	1.50
Provemont Courier	"	"	.....	1.50
Three Oaks Acorn	"	"	.....	1.00
Crawford Avalanche	"	"	.....	1.50
Newberry News	"	"	.....	1.50
Charlotte Leader	"	"	.....	1.00
Northville Record	"	"	.....	1.50
Benzie County Leader	"	"	.....	1.50
Delta County Reporter	"	"	.....	1.50
Alcona County Review	"	"	.....	1.50
Elsie Sun	"	"	.....	1.50
Redford Record	"	"	.....	.50
Alpena News	"	"	.....	1.50
Grant Herald	"	"	.....	1.50
Yale Record	"	"	.....	.40
Owsamo News	"	"	.....	1.50
Three Rivers Commercial	"	"	.....	3.00
Ionia Sentinel	"	"	.....	1.50
Harbor Beach News	"	"	.....	1.50
Portland Observer	"	"	.....	1.50
Litchfield Gazette	"	"	.....	1.50
Coldwater Reporter	"	"	.....	1.50
Carleton Times	"	"	.....	3.65
Fairgrove Enterprise	"	"	.....	1.00
Meaty News	"	"	.....	.50

Osceola Press	Newspaper Subscription		.....	$ 1.50
Adrian Telegram	"	"	.....	3.00
Powers Tribune	"	"	.....	1.50
Armada Graphic	"	"	.....	1.50
Sanilac Co. Republican	"	"	.....	1.00
Lexington News	"	"	.....	1.50
Whitehall Forum	"	"	.....	1.50
Michigan Patron	"	"	.....	.25
Bangor Gazette	"	"	.....	2.00
Brown City Banner	"	"	.....	1.50
National Democrat	"	"	.....	1.50
Flint Daily Journal	"	"	.....	3.00
Birch Run Leader	"	"	.....	.75
Journal Chronicle	"	"	.....	1.50
Battle Creek Journal	"	"	.....	2.60
The Northwestern Weekly	"	"	.....	.50
Hopkines Leader	"	"	.....	.50
Oscoda Press	"	"	.....	1.20
Cressey Publishing Co.	"	"	.....	1.00
Augusta Beacon	"	"	.....	1.50
Sunfield Sentinel	"	"	.....	1.00
Royal Oak Tribune	"	"	.....	1.00
Watervliet Record	"	"	.....	1.00
Athens Times	"	"	.....	1.00
Allegan News	"	"	.....	1.00
Benton Harbor News	"	"	.....	2.25
Paw Paw Northerner	"	"	.....	1.50
Morley Journal	"	"	.....	1.50
Huron County Tribune	"	"	.....	1.50
Rapid River News	"	"	.....	2.00
Brooklyn Exponent	"	"	.....	1.50
Mount Pleasant Times	"	"	.....	.75
Iron Ore	"	"	.....	2.00
Detroit American	"	"	.....	2.00
Petoskey Evening News	"	"	.....	3.50
Dimondale News	"	"	.....	1.00
Cheboygan Daily Tribune	"	"	.....	2.25
Baraga Journal	"	"	.....	1.50
St. Louis Leader	"	"	.....	2.25
Riverdale Promoter	"	"	.....	1.50
Little Stock	"	"	.....	4.00
Gobleville News	"	"	.....	1.50
Worker's Voice	"	"	.....	2.00
Ovid Register Union	"	"	.....	1.00

Sun Times	Newspaper Subscription	$	1.50
Ocdana Herald	" "		1.50
Grand Traverse Sun	" "		1.50
North Adams Advocate	" "		1.50
Centerville Observer	" "		.75
L'Anse Sentinel	" "		1.50
Bangor Gazette	" "		1.40
Casnovia Herald	" "		1.50
Manistique Courier Herald	" "		1.50
St. Ignace Republican News	" "		1.50
Ravenna News	" "		2.00
Hudson Gazette	" "		1.50
Hesperia Union	" "		1.00
State Journal	" "		1.00
St. Clair Republican	" "		1.00
Plymouth Mail	" "		1.00
Plymouth Mail	" "		1.50
Rural Publishing Co.	Printing		2.50
Saturday Night Press	Newspaper Subscription		2.50
Jeffrey White	Photographs		16.00
Highland Park Times	Printing		90.00
Williams Company	"		42.45
Stoll Printing Company	"		14.00
Beecher, Peck & Lewis	"		15.19
H. J. Stecker Company	"		11.00
O. A. Koss Company	"		376.75
Howard City Record	"		5.00
Howe Printing Company	"		39.50
Dispatch Printing Company	"		32.00
Karyer Publishing Co.	"		107.80
Commercial Printing Co.	"		22.90
Ainger Printing Co.	"		350.00
Herald Leader Co.	"		847.25
Wayne Publishing Co.	"		1,750.05
Williams & Houghton	"		5,925.76
Inland Press	"		12,196.70
Etheredger Company	"		331.60
Chas. V. May Co.	"		355.00
Echo Publishing Co.	"		277.75
Reardon Parshall Co.	"		148.25
Detroit Phto Eng. Co., Engravings			34.00
Henry Romeike Clipping Bureau, Clippings			54.76
Leslie-Judge Pub. Co., Copies Leslie's Weekly			70.00
Western Newspaper Union, Plates			373.20

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Standard Map Co., Maps			$ 27.42
Clerical expense in connection with distribution of literature, per B. F. Emery and Harry O. Turner, Assistant Secretaries			894.28
Expense of distribution of literature in counties, per Charles A. Floyd, Secretary			1,874.80
B. F. Emery, Assistant Secretary			2,799.21
James F. McGregor, Assistant Secretary			175.00
James R. Davis, Assistant Secretary			181.25
E. V. Chilson, Assistant Secretary			87.00
Expense of Publicity Department in connection with distribution of literature, per H. A. Hopkins, Director of Publicity			415.75

ADVERTISING AND OTHER PUBLICITY

Hooven Auto Typewriting Co.,	Mimeograph Letters		$ 134.61
Curtis & Hydge	"	"	6,700.56
Grand Rapids Typewriter Co.	"	"	43.05
Stott Printing Co.	"	"	48.50
George S. Cotter	"	"	225.00
E. B. Morton	"	"	55.00
F. O. Lindquist	"	"	4,557.00
Direct Advertising Service	"	"	465.65
Art Craft Letter Shop	"	"	120.73
Clerical expense in connection with mailing letters, per B. F. Emery and Harry O. Turner, Assistant Secretaries			10,791.31
Expense of Publicity Department in connection with preparing letters, per H. A. Hopkins, Director of Publicity			430.00
B. F. Emery	Postage		880.00
William J. Nagel	"		11,495.00
Postmaster, Detroit	"		5,666.90
Postmaster	"		1,502.75
William & Houghton	"		302.08
Postage for County Committees, per Charles A. Floyd, Secretary			840.99
B. F. Emery, Assistant Secretary			309.92
James F. McGregor, Assistant Secretary			234.62
James R. Davis, Assistant Secretary			107.00
E. V. Chilson, Assistant Secretary			62.00
Printing and Stationery for County Committees, per Charles A. Floyd, Secretary			751.10
B. F. Emery, Assistant Secretary			260.50

James F. McGregor, Assistant Secretary		$ 330.90
James R. Davis, Assistant Secretary		34.85
E. V. Chilson, Assistant Secretary		78.00
Clerical expenses of County Committees, per Charles A. Floyd, Secretary		1,203.68
R. F. Emery, Assistant Secretary		1,957.71
James F. McGregor, Assistant Secretary		705.00
James R. Davis, Asst. Secretary		103.50
E. V. Chilson, Asst. Secretary		102.00
Whitehead & Hoag Co., Campaign Buttons		1,634.70
Expense of Publicity Department in preparation of literature per H. A. Hopkins, Director of Publicity		1,663.00
Expenses of Asst. Secretaries in arranging Public meetings per B. F. Emery, Asst Secretary		993.75
Expenses of County Committees in holding Public meetings per Charles A. Floyd, Secretary		901.50
B. F. Emery, Asst. Secretary		372.80
American Printing Co., Stationery		42.00
John Galvin	"	24.00
Kee Lox Manufacturing Co	"	4.50
Miller, Bliss & Hughes	"	11.75
Union Paper & Twine Co.	"	5.05
Volk Stamp & Stencil Co.	"	25.53
George A. Drake & Co.	"	3.00
Beecher, Peck & Lewis	"	139.44
Gregory, Mayer & Thom	"	137.15
Richmond & Backus	"	296.35
George J. Reindel & Co.	"	36.25
Wells Manufacturing Co.,	"	17.64
Wells Manifolding Co.	"	9.00
Charles A. Floyd,	"	124.70
H. J. Stecker Co.,	"	131.29
Frankel Carbon Co.	"	10.00
H. O. Turner,	"	10.00
Challenge Envelope,	"	6.00
Total Expenditure for Advertising and other Publicity		$147,860.16

OFFICE EXPENSES

Detroit Typewriter Co., Typewriter		$ 35.00
Royal Typewriter Co.	"	61.50
B. W. Randall	Furniture	63.70
L. C. Smith & Bro.	"	102.50

American Multigraphing Sales Co., Multigraphing Machine		$ 697.20
Underwood Typewriter Co., Typewriter		175.50
Hudson & Symington, Curtains		27.60
George J. Reindel, Furniture		1,356.04
The Addressograph Co., Addressograph and plates		2,663.88
Corona Typewriter Co., Typewriter		99.00
Typewriter Supply Co.	"	35.00
County Committees, Rent, Furniture, light and other expenses, per Charles A. Floyd, Secretary		949.43
B. F. Emery, Assistant Secretary		30.00
E. V. Chilson,	" "	150.00
American Writing Machine Co., Rental		71.00
Edward Ford	"	1,861.51
Underwood Typewriter Co.	"	113.75
Remington Typewriter Co.	"	65.90
B. E. Taylor	"	13.50
Detroit Electric Co.	"	24.00
Corona Typewriter Co.	"	10.00
Detroit Electric Co.	"	6.00
Charles A. Floyd, Office Rental		40.00
Sundry, Rental		23.33
Hiram Marks Electric Co., Installation		11.53
Michigan Stereotype Co., Cuts		6.75
Corona Typewriter Co., Supplies		45.00
L. Breen Co.	"	4.00
Underwood Typewriter Co., Rentals		87.75
Banner Laundry, Laundry		20.85
Frankel Carbon Co.	Supplies	4.00
Gregg Hardware Co.	"	2.25
Remington Typewriter Co.	"	1.15
N. N. Rulison	"	15.00
American Multigraphing Sales Co.	"	50.00
Wells, Fargo & Co.	Express Charges	10.03
Sundry Items	" "	88.39
McKinnon Cartage Co.	" "	8.00
H. O. Turner, Asst. Secretary	" "	33.49
B. F. Emory	" "	6.60
Total Office Expenses		$ 9,070.13

TELEGRAPH AND TELEPHONE CHARGES

Michigan State Telephone Co.	$ 446.59
Western Union Telephone Co.	263.72

turday Night Press	$	8.34
stal Telegraph Co		2.36
penses of County Committees for telegraph and telephone charges, per Charles A. Floyd, Secretary		549.82
B. F. Emery, Assistant Secretary		131.81
James F. McGregor, Assistant Secretary		49.60
James R. Davis, Assistant Secretary		26.25
E. V. Chilson, Assistant Secretary		35.65
Total expenses for telegraph and telephone charges	$	1,514.14

TRAVELING EXPENSES

ul H. King, Chairman	$	980.98
harles A. Floyd, Secretary		1,084.00
A. Hopkins, Director of Publicity		150.00
arence L. Sibben, Stenographer		816.59
F. Emery, Assistant Secretary		251.10
mes R. Davis, Assistant Secretary		350.00
mes B. Haskins, Assistant Secretary		174.20
C. Wilson, Publicity Representative		25.00
V. Chilson, Assistant Secretary		114.50
K. Moore, Assistant Secretary		651.50
W. Rose, Publicity Representative		100.00
homas Phillips " "		255.00
G. McEachron " "		50.00
erry T. Corliss, Assistant Secretary		745.00
as. F. McGregor, Assistant Secretary		599.60
F. Reed, Assistant Secretary		450.00
E. Smith, Publicity Representative		100.00
O. McLean " "		542.00
Traveling expenses incurred by County Committees, per Charles A. Floyd, Secretary		1,277.58
B. F. Emery, Assistant Secretary		241.87
James R. Davis, Assistant Secretary		145.60
Total Traveling expenses	$	9,104.52

COPYING ELECTION REGISTERS AND CANVASSING VOTERS

List of voters from county and township clerks, as follows:

Charles J. McGuire	$	25.00
Frank E. Ford		7.84

....M. Voseback	$	5.00
S. L. Utley		27.78
William Krohn		5.50
B. F. Emery		10.00
W. E. Barber		10.00
E. E. Harwood		2.00
Andrew Faulde		2.00
W. L. Johnson		5.50
W. S. Thompson		6.30
Julia Gaylord		50.00
Frank Jenks		78.10
J. H. Taylor		5.25
List of voters from county and Township Clerks, cont'd:		
Br't Forward		240.27
E. E. Upston		1.55
C. A. Anderson		40.00
E. E. White		17.00
Felix Flynn		20.00
Sam T. Taylor		35.00
B. B. Gorman		5.00
R. G. Samson		5.25
Chris Kohn		35.00
Sundry township clerks		692.79
Clerical expense in general office in connection with securing and transcribing lists of voters, per B. F. Emery, Assistant Secretary		894.27
Expense in counties, canvassing voters and tabulating lists, per Charles A. Floyd, Secretary		2,107.20
B. F. Emery, Assistant Secretary		653.55
James R. Davis, Assistant Secretary		128.50
Total expenses for copying election registers and canvassing voters	$	4,875.38
Salaries and compensation not otherwise charged:		
Paul R. Dailey, Attorney fee	$	500.00
James R. Davis, Assistant Secretary		1,003.75
Terry T. Corliss, Assistant Secretary		907.50
James F. McGregor, Assistant Secretary		866.25
A. K. Moore, Assistant Secretary		866.25
Total salaries and compensation not otherwise charged	$	4,143.75
Total disbursements		$176,568.08

RECEIPTS

Sundry	persons as per accompanying list:		
March	22	John S. Newberry	$ 1,000.00
"	29	"	1,000.00
April	6	"	3,000.00
"	10	"	3,000.00
"	17	"	4,000.00
"	24	"	6,000.00
May	9	"	2,000.00
"	14	"	1,000.00
"	24	"	1,000.00
Jun	1	"	2,000.00
"	11	"	2,000.00
"	13	"	2,500.00
"	20	"	1,000.00
"	24	"	2,000.00
"	26	"	2,500.00
Jul	2	"	3,000.00
"	8	"	5,000.00
"	10	"	5,000.00
"	11	"	2,000.00
"	12	"	10,000.00
"	17	"	2,000.00
"	22	"	3,500.00
"	25	"	2,000.00
Aug.	8	"	2,000.00
"	10	"	8,000.00
"	14	"	7,400.00
"	16	Emery W. Clark	100.00
"	16	Elizabeth L. Clark	100.00
"	16	Richard B. Joy	100.00
"	16	John S. Newberry	2,500.00
"	16	Henry B. Ledyard	200.00
"	16	Col. Frank J. Hecker	1,000.00
"	16	H. A. & F. M. Alger	1,000.00
"	16	Fred J. Moren	100.00
"	19	John S. Newberry	3,500.00
"	19	Lyman B. Smith	10,000.00
"	20	Citizen of Ludington, Mich.	1.00
"	20	Henry B. Joy	1,000.00
"	20	Hugo Scherer	100.00
"	20	William Mather	1,000.00
"	21	M. S. Keeler	25.00

Aug.	21	S. W. Utley	$ 10.00
"	21	E. F. Hammond	50.00
"	21	K. M. Carter	50.00
"	21	A. Victor Barnes	10,000.00
"	22	Frederick Brooks	2,500.00
"	22	Henry B. Joy	7,500.00
"	23	Joseph Boyer	50.00
"	23	John N. Bagley	50.00
"	23	Paul F. Bagley	50.00
"	23	Henry M. Leland	100.00
"	26	W. W. Johnson	50.00
"	26	C. Roehm	50.00
"	26	David Whitney	250.00
"	28	J. T. Keena	100.00
"	28	John G. Rumney	100.00
"	28	A. H. Buhl	250.00
"	29	E. F. Roberts	25.00
"	29	F. R. Robinson	10.00
"	29	F. L. Jandron	5.00
"	29	W. D. Walker	5.00
"	29	F. J. Druar	5.00
"	29	G. H. Brodie, Jr.	5.00
"	29	John D. Wilson	5.00
Amount brought forward			$ 25,846.00
"	29	J. J. Marke	5.00
"	29	C. H. Vincent	5.00
"	29	John R. Bodde	25.00
"	29	F. G. Eastman	5.00
"	29	C. S. Hair	25.00
"	29	F. H. McKinney	5.00
"	29	D. G. Stanbrough	5.00
"	29	C. J. Sherer	5.00
"	29	Frank Blandon	5.00
"	29	Milton Tibbitts	5.00
"	29	George C. Reifel	5.00
"	29	C. R. Lister	5.00
"	29	F. G. Eastman	5.00
"	29	C. G. Moore	10.00
"	29	Murray W. Seles	200.00
"	31	J. E. Locker	5.00
"	31	R. B. Smith	5.00
"	31	A. W. George	5.00
"	31	H. Lonsdale	5.00
"	31	Frank W. Blair	100.00

)	3	A. I. Lewis	$ 50.00
"	2	H. E. Bodman	100.00
"	3	S. S. Kresge	100.00
"	3	Cooper Wood	100.00
"	3	A. R. Demory	200.00
"	3	Alvin McCauley	250.00
"	3	Enoch Smith	25.00
"	3	A. Victor Barnes	15,000.00
"	4	Henry B. Joy	5,000.00
"	5	J. D. Lyon	50.00
"	5	Harry J. Dean	100.00
"	5	Henry M. Campbell	100.00
"	6	Mrs. H. B. Joy	10,000.00
"	6	Henry B. Joy	11,500.00
"	6	John S. Newberry	10,000.00
			$178,856.00

UNPAID DEBTS OR OBLIGATIONS

None to the best of my knowledge, information and belief.

ATE OF MICHIGAN
unty of WAYNE

Frank W. Blair, being duly sworn, deposes and says that the regoing is a full, true, and detailed account and statement of disbursements, receipts, and unpaid debts or obligations ade, received and incurred as treasurer of the Truman H. ewberry Senatorial Committee in connection with said campaign for the nomination aforesaid.

FRANK W. BLAIR

bscribed and sworn to before me, this sixth day of September, 1918.

PAUL R. DAILEY,
Notary Public, Wayne County, Michigan.

My commission expires August 16, 1921.

o. A 4543 S-6A-Form 6 CERTIFIED COPY—"LAW."
(Copy Seal)

I, Milton Oakman, Clerk of Wayne County, and Clerk of the rcuit Court for the County of Wayne, do hereby certify, that e above and foregoing is a true and correct copy of Newberry natorial Report entered in the above entitled cause by said ourt, as appears of record in my office. That I have compared

the same with the original, and it is a true transcript therefrom and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court and County at Detroit, this seven day of October, A. D. 1918.

Fee $8.00.

Milton Oakman, Clerk.
O. Bingham, Deputy Clerk.

CHARLES NAWROT, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I lived in Grand Rapids 27 years. I am a printer employed by the defendant William E. Rice, of the West Michigan Printing Company. Some time prior to the primary of 1918, Mr. Rice requested me to go to the office of Mr. George W. Welsh. I went to Mr. Welsh's office accompanied by Lewis Feringa, a pressman employed in the same place, was at that time. When we reached Mr. Welsh's office he said he would come down and see us later, that was all the conversation we had at that time. About two or three days later he came down and gave us a Newberry petition; he said to get some signatures on the petition. Besides the petition he gave me $10. I don't know how much he gave Mr. Feringa; I saw him give him some money. I got two or three to sign the petitions. I saw Welsh later, with reference to the petition. I turned it in. I know Mr. Charles Floyd, the defendant. He gave me $80 in cash at the shop during the primary campaign of 1918. Previous to this I asked him if he wanted to get in on the meetings that were supposed to be held. I was working for William Smith, running for Sheriff of Kent County at that time. He said he did. He told me to make out my amount, and what it would cost, and he would see that I got it. He gave me the money later; this $80 was to defray expenses in behalf of Mr. Newberry. The expense that was credited up to him at those meetings was paying the rent of the halls, the soft drinks that was bought—it might have been cigars. Whatever they wanted to take, they got. I think they either took cigars, or soft drinks, or both. We got up four of those meetings. The expense of each of the four meetings was somewhere along $8 or $9. We were not using the Newberry Senatorial Committee money exclusively; Smith paid his own share, and I paid Newberry's share. I never rendered an account of my expenditures to Mr Floyd. The New-

ry representatives were not present to address the meetings. e meetings were not made up of any particular nationality, any particular organization. They were meetings that we ertised. We did not get bills printed; we just passed the rd around. The hall rent was $5 or $6 a night for each of four meetings. I had something to do with the printing of James W. Helme petitions in 1918. They were printed in West Michigan Printing Company, which is Mr. Rice's place business. I could not say how many they printed; I think re was about 500. I saw the defendant, William J. Mickel, n there in connection with the arrangement for the print- . After they were printed, Mr. Mickel came down and got m himself. The letter heads of the Bolo Club were printed the same place. I think about 6,000 or 7,000 were printed Mr. Rice. That printing bill was partially donated and par- ly paid for. Mr. Mickel himself paid for the printing of the lme petitions. I do not remember how much.

OSS-EXAMINATION BY MR. LITTLETON:

I have been connected with the printing establishment of Mr. e about eleven years. I know him very well. I had not own Mr. Floyd personally before 1918. Mr. Welsh was a ndidate for the office of Representative at the primaries of 18, and Mr. Smith was a candidate for Sheriff. The position ccupied in Mr. Smith's campaign was just that of a common, dinary, every-day knockabout. I had no official station. He s not nominated. I began to work for him as a candidate r Sheriff about a month before the nomination was made. I rculated no petition except the Newberry petition. I had al- dy been to work for Mr. Smith at the time I was spoken to Mr. Welsh. I cannot recall the day, but it was a month or before the primaries. At these meetings that I got up for r. Smith, other names besides Mr. Smith's were presented as ndidates or discussed, both county officers and state officers. ey were called regular meetings for the Republican candidates. went into the work of getting up these meetings for Mr. Smith out three weeks before the primaries. We were just starting hen Mr. Floyd came down and talked to me about also hold- g the meetings for Newberry. I told him that if he wanted to t in on them he would have to defray some of the expenses. brought up the matter with him, and I told him the expense ould be about $80. The money was to pay in part for these etings which I was getting up for Smith for Sheriff and I so ed the money. I got up meetings around the halls in Grand

Rapids and one in Belmont. I arranged the hiring of the halls and the payment of expenses, such as they were, for the carrying on of the meetings. I did the actual work of printing of the Helme petitions. Mr. Mickel arranged for the printing of the petitions, partially with Mr. Rice and partially with me. I heard the conversation between Mr. Rice and Mr. Mickel. Mr. Rice told Mr. Mickel he was busy and did not want to do the work at that time. Our shop was busy. During the time this campaign was going on, Mr. Rice had in his possession and in front of him a copy of the Michigan Election Laws. The book now shown me is the volume that he had in front of him.

JOHN MORAN, sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Grand Rapids and am manager of the Hotel Hermitage, which is located at the corner of Monroe and Michigan. I was engaged in the same business and at the same location in the summer of 1918. I know the defendant William J. Mickel, and I knew him in 1918. He engaged room No. 9 at my hotel from the 2nd of July and continued to hold it until the 30th of August, 1918. He said he wanted it for to use for political purposes. I do not know of anybody except Mr. Mickel occupying that room during the time for which it was rented. I did not know Mr. Helme at that time; I just met him a couple of weeks ago. I do not know of or remember seeing any of Mr. Helme's stationery during 1918, or any of the stationery that was being used by Mr. Mickel. The location of this room corresponds to No. 408 Monroe Avenue. Mr. Mickel used the room for an office, and so engaged it. He wanted a light room for a stenographer and I presume sending out literature. I do not know as I was ever in the room whilst he had it. I had no occasion. Mr. Mickel paid me for the room at the rate of $5 a week.

CROSS-EXAMINATION BY MR. LITTLETON:

When Mr. Mickel engaged the room he said he wanted a cheap one and one that was light; that he had some political work, and would probably have a stenographer. He said he did not want a very expensive room. I quoted to him the price of the room in advance of his taking it. We had him look at this particular room, and he said he wanted to have a stenographer, and there was a bed in the room, and we told him we could curtain the room in, so that he could use it for an office.

C. W. JOHNSON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Lawton, Michigan, and am a dentist. I was living at Lawton and engaged in that business in 1918. I am acquainted with the defendant, Paul King. I met him at Paw Paw in connection with the Newberry campaign in 1918. The occasion was a dinner to which I was invited. Six or eight or ten persons were present at that dinner, some place along there. I did not consider it a political gathering, just a friendly meeting. Mr. King was there. There was no speaking or talks made in connection with the dinner while I was there. Mr. King did not at that time ask me to do any political work in particular. He asked me how I stood in regard to Mr. Newberry. It may have been that he requested that I do all I could for Mr. Newberry. I did not pay any attention to that. I afterwards did some work in the campaign. Frank N. Wakeman was there for a while; not to the dinner, as I recollect. On primary day I hired two automobiles. I paid $10 to Charley Coons for one, and gave credit for $12 on a dental account that was owing to me by Clare Hall. I hired these men to use their machines to haul voters to the polls. I might state that Mr. Coons' machine was out of commission before the day was over, and it was not used, but I had paid him the $10. I did not report any expenses which I had in connection with the campaign, only through Mr. Wakeman. I told him that my expenses were between $20 and $30. Quite a while after I received a remittance in the form of a check. I think it came by mail. I do not know from what place it came. I did not observe whether or not the envelope was postmarked or had a return card upon it. I do not know by whom the check was signed. I cannot recall the amount of the check. I would not say it was $30; I do not know. I cashed the check and received the money.

CROSS-EXAMINATION BY MR. LITTLETON:

I have known Mr. Paul King since we were boys. Paw Paw, where I was invited to the dinner, is four miles from my home. I cannot give you the names of all those present at the dinner. Among them were Judge DesVoignes, Circuit Judge of Van Buren County. Mr. Wakeman was there for a short time and there was Mr. Beattie, and I think Mr. Adams; I would not swear to it positive. Mr. King ought to have known how I stood on the Senatorial matter without asking me. I certainly was

for Mr. Newberry. I took my position for Senator Newberry before I met Mr. King. I did not see Mr. King again after that dinner, and all I did in connection with the Newberry campaign was the hiring of the cars on primary day. Mr. Coleman was running for State Senator; I have been associated with him for 22 years; I was acting as secretary of his campaign. Nobody requested me to get the cars for that primary day; it was upon my own suggestion. I suggested it to Mr. Wakeman, of Paw Paw.

JAMES H. MUSTARD, a witness sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Battle Creek and am a lawyer. I was located at Battle Creek in 1918 and took some part in the Newberry Senatorial campaign. I should say my active connection with the campaign began in July. I know the defendant Tom Bigger. I had several conversations with different people in Battle Creek when we were talking over the general sentiment on the question of United States Senator. There were several preliminary conversations on different occasions at which different parties were present. There was a conversation relative to a proposed banquet to be given to Mr. King at the Post Tavern at which it was suggested that we ought to give it at some time when Mr. King of Detroit would be able to be present. We had the banquet or dinner there and Mr. King was present. There were perhaps forty or forty-five, maybe fifty, men present altogether. There were several speeches made, and at the conclusion of the meeting they appointed a committee of five to select an organization for a Newberry Club. Some three or four or five days later I was appointed chairman. Mr. John R. Sallows was named treasurer and Mr. Claude Walkenshaw was named secretary. I was offered the appointment of chairman the day following this banquet, but I explained that I did not have time to take care of the matter. Several conferences were had and I finally told them, or told the committee, that if they would raise enough moneys to take care of a secretary's office in some place outside of my office, that I would be glad to give it as much attention as possible. Some three or four days later I was informed that $200 had been deposited in the Merchants' Savings Bank at Battle Creek in the name of myself and Mr. Sallows, jointly. Later an additional $100 was placed to our credit there. Mr. Walkenshaw was the only one that drew a salary. I believe

he drew $37.50 per week. I do not know the exact amount of the expenses incurred before the primary by our committee. I knew what amount was paid out before the primary. We paid out for stamps, stationery and printing, hand bills and things of that character, $176.18. The balance of the money was used subsequent to the primary and for general election purposes, although there is one bill of about $40 that may have been incurred prior to the primary; I do not know. The great part of these expenses was incurred for stamps, and we also had some fairly good sized printing bills; in fact, we sent out a circular letter and had that printed rather than type-written. I personally did not contract any of these bills. They were brought to me and I signed the check for them. I received communications from Mr. King both before and after the primary, and from Mr. Newberry after the primary. I do not believe I received any before, although I might have. I also received a re-subscription to Harvey's Magazine. I think it was along the following March or April, 1919, that I was notified by the company publishing Harvey's Weekly and I believe also by Mr. Newberry. At the time I got this subscription I knew him personally, but only by way of meeting him at a banquet in Battle Creek. I believe that was after the primary and before election, but it might have been after he was elected.

CROSS-EXAMINATION BY MR. LITTLETON:

It was at the Washington's birthday banquet, February 22nd, 1919, that I met the defendant Newberry. I had been a Newberry man some time before July, 1918. I believe the dinner or banquet at the Post Tavern was held some time in that month. Hon. Washington Gardner of Albion was chairman. He was a former member of Congress. There was forty or forty-five or possibly fifty men who have been most active in politics in Battle Creek for the last ten or twelve years. Mr. Wooden was there, I believe; Mr. Barnard J. Onen, a lawyer; Deland Davis, the County School Commissioner; John C. Davis, lawyer; John R. Sallows; Miles Curtis, the state representative; James Henry, the state senator; and I think Judge Walter H. North, Circuit Judge, was there—I would not swear positive to that. The first speech was made by the Honorable Washington Gardner. B. J. Onen spoke, as I recall it, and I think Miles Curtis and Paul King. I think every one of those speeches were in reference to the candidacy of Mr. Newberry for senator. The committee appointed at that dinner for the purpose of naming an organi-

zation in that county consisted of, I believe, State Representative Curtis, School Commissioner Deland Davis and Mr. Wooden, Chief of Police. Ralph L. Day, I believe, was also on the committee, and another whom I cannot recall. There was five of them. All of the active business of the committee after it was organized, outside of paying the money, was done at Mr. Wilkenshaw's home. He was running for county clerk at the time. The first $200 was deposited in the Merchants' Savings Bank in the neighborhood of a week after the dinner. When that money was checked out of the bank, it was checked out on my signature and Mr. Sallows'. Mr. Wilkenshaw contracted the bills and I paid them by coming to us and getting a check. He would bring the check to me and I would sign it. Mr. Sallows' office was in the other end of the city. He would take it out to his office and he would sign it. I was furnished with the items of expenditure for which the checks were issued, at the same time I signed the checks, as I went along, checking out the money. Yes, I think it is all there. Mr. Walkenshaw brought back the receipted bills, except for his own salary. He only worked three weeks, then he advised us he would have to give the matter up in order to look after his own interests as candidate for county clerk. The other $100 was deposited in the same manner and to the credit of the same persons, and was checked out in the same fashion. After the primary election was over, this money was turned over to the Regular City Republican Committee at Battle Creek and used for the benefit of the whole ticket. After the primary election, we sent out Newberry literature and we also included the literature of every other candidate. I received the four letters which I now produce from Mr .King.

The letters referred to by the witness were marked Defendants' Exhibits Nos. 15, 16, 17 and 18, respectively.

THE WITNESS (continuing): I received the two letters and the telegram now shown me, marked Defendants' Exhibits Nos. 19, 20 and 21, respectively, from Mr. Newberry.

The seven exhibits referred to and identified by the witness were here received and read in evidence by Mr. Littleton, as follows:

DEFENDANTS' EXHIBIT NO. 18

TRUMAN H. NEWBERRY

For Republican Nomination for United States Senator

310 Ford Building,

Detroit.

July 16, 1918.

State Committee:

A. A. Templeton,

General Chairman.

Paul H. King,

Chairman Executive Committee.

Mr. James H. Mustard,

Battle Creek, Michigan.

My Dear Mr. Mustard:

I have just returned from a trip through Monroe, Lenawee, Hillsdale, Branch and St. Joseph Counties where I conferred with many active Republicans. I am pleased to report that I found very little sentiment for Mr. Ford in these counties. As a matter of fact, with the exception of Monroe and Branch he did not carry them in the presidential preference primary, and in each of these two counties his majority was less than 100 votes. There is, of course, no reason why sentiment should change in his favor; in fact, there is every reason to look for a much smaller vote than he then received.

I found practically no support for Mr. Osborn in many of the counties. Occasionally I did strike a man who felt inclined towards him, but they were few and far between. In the course of my trip I met one man who said he was for Senator Smith.

The situation in these counties is certainly good from our standpoint.

I am receiving good reports from the Upper Peninsula, from the Thumb counties and from Western Michigan. I expect, of course, that Senator Smith's candidacy will affect a few of our friends in the western part of the state, but I do not look for many changes. Some, of course, are under personal obligations and feel that they must be for him, which is perfectly right and proper, of course, although it does mean a sacrifice on their part.

Conditions in Detroit are very satisfactory. It was at first thought that the working men might be largely influenced by Mr. Ford's candidacy, but investigation shows that this is not the case. He will undoubtedly get some votes in Detroit, but we shall carry the county by a good majority.

Will you kindly send to me, so that they will reach me by 25th of this month, any petitions which may still be out as we wish to file them on that date.

With kind personal regards, I remain.

Sincerely yours,

Paul H. King.

DEFENDANTS' EXHIBIT NO. 15

TRUMAN H. NEWBERRY

(Same Heading as Exhibit 18) Enroute—Owosso, Mich.
July 31, 1918.

Mr. James H. Mustard,
Battle Creek, Michigan.

My Dear Mr. Mustard:

I have a suggestion from a friend in Branch County, Glenn Cowell, a prominent attorney in Coldwater, with reference to the News-Enquirer. Mr. Cowell has had a talk with Mr. Miller, the editor, who is strongly opposed to Ford but is undecided as between Newberry and Osborn. It has occurred to me that you may possibly have some way of presenting the matter to Mr. Miller so that he will realize that Newberry is the one man who can unite the party at this time and defeat Henry Ford. Cowell suggested that W. J. Smith might have some influence with Miller, and, in accordance with the suggestion, I have written Will asking him to help. I do not know whether he will or not.

In any event I hope we may get the support of the paper because of its influence there.

Sincerely yours,

Paul H. King.

PHK:S

DEFENDANTS' EXHIBIT NO. 16

~~TRUMAN H. NEWBERRY~~

(Same Heading as Exhibit 15)
Same Heading as Defendants' Exhibit No. 16)
Enroute—Saginaw, Mich.
August 12, 1918.

Mr. James Mustard,
Battle Creek, Michigan.

My Dear Mr. Mustard:

Your good letter of the 2nd just reached me and I am mighty glad to hear from you.

I want to congratulate you on the letter which you have drafted to go to Calhoun County Republicans. This is certainly fine and cannot help but do a great deal of good.

Reports continue to be splendid and I feel as confident as ever that we will win.

With many thanks and kind personal regards, I remain.

Sincerely yours,

Paul H. King.

PHK:S

DEFENDANTS' EXHIBIT NO. 17

(Same heading as Defendants' Exhibit No. 16)

Mr. James H. Mustard,
Battle Creek, Michigan

Detroit, August 31, 1918.

My Dear Mr. Mustard:

This is the first opportunity I have had to write you since the primaries. As you may imagine, things have been coming pretty thick and fast here following the victory of Tuesday. It certainly was some victory, wasn't it? We are all very happy over it and wish to extend to you our congratulations for your part in it. It never could have been possible without the active, earnest co-operation of such good friends as yourself, and I wish to express to you again our hearty thanks. It has been a pleasure to work with you and I hope our future associations may continue to be close. If there is any way I can be of service to you at any time, I hope you will not fail to let me know.

The next thing, of course, is the election, and I am glad to feel that we may have your continued support there. The State Central Committee will, of course, take charge of the campaign from now on, and I am going to help all I can in an advisory way and will be grateful for your suggestions.

Hoping to see you soon and thank you personally for all that you have done, I remain, with kindest regards.

Sincerely yours,

Paul H. King.

P. H. K.—G.

DEFENDANTS' EXHIBIT NO. 19

Truman H. Newberry, Detroit, Michigan.

New York City, August 22, 1918.

My Dear Mr. Mustard:

Just a line to tell you how much I appreciate all the splendid things that you are doing and saying in behalf of my candidacy

for the Senate. I have learned from many sources of your helpful activities and feel that I am indeed fortunate in having your co-operation.

Hoping to have the opportunity of thanking you in person at some future time, I remain,

Sincerely yours,

(Signed) Truman H. Newberry.

Mr. James H. Mustard,
Battle Creek, Mich.

DEFENDANTS' EXHIBIT NO. 20

Truman H. Newberry, Detroit, Michigan.

New York City, November 12th, 1918.

My Dear Mr. Mustard:

I wish again to express to you my great appreciation of your efforts in my behalf in the election last Tuesday. The fight was a hard one, the situation most unusual and under all of the circumstances with which we had to contend, I feel that our success was really remarkable.

I am deeply grateful for the expression of confidence in me and shall do my best at all times to prove worthy of it.

With every good wish, I remain,

Sincerely yours,

(Signed) Truman H. Newberry.

Mr. James H. Mustard,
Battle Creek, Michigan.

DEFENDANTS' EXHIBIT NO. 21

Western Union Telegram

104 CH R 15,

S New York NY 1152 Am Aug 28 1918

James H. Mustard,
Battle Creek, Mich.

Please accept my sincere congratulations and heartfelt thanks and appreciation for all your hard work.

Truman H. Newberry 1245P

HARRISON MERRILL, another of the defendants named in the indictment, but who had entered a plea of nolo contendere sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is at Kalamazoo, Michigan. I have resided there something like ten years. I have been engaged in newspaper

work for about twenty years. At present I am doing work for the Kalamazoo Gazette, a weekly publication called Saturday Night, and doing publicity work for two theatres. I am acquainted with the defendant William Calnon. I knew him in 1918, and prior to that time he was a newspaper man also. I saw Mr. Calnon early in the year 1918 at Kalamazoo; I think I met him at the Burdick and later we had lunch at the Park American. On that day I had a conversation with Mr. Calnon with reference to the Newberry candidacy. I think it started one place and finished the other. Mr. Calnon informed me that he was going to look after the Newberry publicity in that section of the state, as I understood it, from Detroit westward, and he suggested that I assist him in that respect, in the vicinity of Kalamazoo, including the counties westward to the Lake—that was my impression—and southward. My work was to be general publicity and the placing of advertisements in these various newspapers in that territory. We didn't go into it very deeply, only he outlined the idea. He suggested a salary of $25.00 a week. I don't think any final agreement was entered into that day between us, but that was the understanding that if I did do this work I was to receive this pay. I know the defendant Charles Farrell. He lives in Kalamazoo. Three or four weeks after this conversation I had with Mr. Calnon he called me over the telephone and told me that that agreement would go through, that I was to receive $25 a week for doing this work. Within a week or two after this I received a check for $25 from the Newberry Senatorial Committee.

Checks in similar amounts continued weekly up to the time of the primary election in August. I received $25 a week for three or three and one-half months possibly. I never did any publicity for them, only to the extent of possibly putting out circulars and advertising matter that was sent me. That was not what I had been employed to do. The headquarters never called upon me to do anything I was employed to do at $25 a week. I did no writing. This money came to me each week—always from the Newberry Senatorial Headquarters in Detroit. I got no money from the Grand Rapids headquarters.

CROSS-EXAMINATION BY MR. LITTLETON:

I received a great many circulars and buttons which I distributed around Kalamazoo and in automobiles. I think I received circulars from the Detroit office. I have been engaged in newspaper work, advertising work and publicity work practically all my life. These circulars that I distributed were the

different kinds of small booklets and the cards that were sent out. There was a local organization in Kalamazoo, but the circulars or data I got came direct from Detroit. I would say I received matter from the headquarters perhaps a dozen times by parcel post. I could not begin to say how many of these circulars, booklets and cards, generally speaking, I received. There was an immense number—a large quantity of them coming continually as they issued new circulars. They were different each time. Each package or parcel that I received contained new or different circulars, and those I distributed as they came in. I should say they were up in the thousands. I was engaged in that work in Kalamazoo continuously up until the close of the primary campaign. Before I received the first $25 check I met the defendant Charles Floyd in Kalamazoo. He talked about Mr. Weidenfelder with reference to the work there. He asked my opinion regarding Mr. Farrell and Mr. Weidenfelder's availability for work in the Newberry campaign in that city. I had not then been in touch with Mr. Farrell in reference to the Newberry matter. As a matter of fact, Mr. Floyd was asking me what I thought about Mr. Farrell and Mr. Weidenfelder for the position of representative of the Newberry interests in that particular city. I did not hear anything more about this matter until probably April. I remember that I received contracts in blank, signed by Mr. H. A. Hopkins. I prepared some advertising matter, I remember, in odd moments. I drew up some advertisements. Very shortly after this, the advertisements began to appear in plate from the Western Newspaper Union. I know that that was a change in plan from what had been talked of before, and that my services as an advertising man were not used for that reason. I was one of the indicted men. In what I did in Kalamazoo in reference to the Newberry campaign, I had no intent or purpose to violate any law. I never conspired with any of the defendants to violate any law, and I did not intend to do so.

RE-DIRECT EXAMINATION BY MR. DAILEY:

Notwithstanding the change in headquarters with reference to newspaper publicity, and the fact that my services were not needed in that connection, my compensation continued from the time of my employment, and on through the primary. Mr. Hopkins sent me perhaps a dozen blank forms of contract. When I received them, I discovered that the publishers had already made out their contracts and sent them in direct. The contracts

had come straight from the Detroit headquarters to the newspaper men themselves.

OSCAR E. KILSTROM, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I am a funeral director and embalmer. I was living in Grand Rapids in 1918. I took no active part, directly, in the Truman H. Newberry Senatorial campaign. I was elected President of the State Bolo Club at Saginaw in June, 1918. Reunions of the Grand Army of the Republic, The United Spanish War Veterans, and all allied auxiliaries and sub-auxiliary, including the Women's Relief Corps, the Ladies of the Grand Army of the Republic, the Daughters of the Veterans, and I believe Sons of Veterans, and some other auxiliaries, were being held in Saginaw at that time. I had been interested in the formation of Bolo Clubs as far back as 1913 but I could not say that I ever became a member of one before the Saginaw meeting. At that time Mr. Burmaster, of Kalamazoo, was elected Vice President; Mr. Felvey, of Detroit, Secretary, and Mr. M. R. O'Malley, of Battle Creek, Treasurer. After I was elected President, I took the chair, and entertained the business that came before the convention. A resolution was presented endorsing Senator Newberry as a candidate, either by Mr. Felvey or Mr. Payne. I had not had any conference with Mr. King, or any other of these defendants who were connected with the Newberry campaign organization before that time, nor did I have a conference with any of these persons who are now defendants, or any communications with them following that meeting at Saginaw. Later I prepared and sent out some letters. A rubber stamp was made of my signature, and the letters were stamped with this stamp at Grand Rapids. Those letters were circularized. I possibly was the main feature, as far as getting them up, and I conferred with others who were interested with me in the success of the Bolo Club and its spreading out. I think the letters were typewritten. They were printed at the printing establishment of the Michigan Printing Company, located at numbers 101 to 103 Lyon Street, Northwest, Grand Rapids. The Bolo Club of Michigan had and held its headquarters in that building. I should judge 8,000 to 10,000 letters were printed over my name and mailed out. I had no part in the mailing out. Mr. Mickel is a Spanish War veteran and was also interested in the work of the Bolo Club. I undoubtedly consulted with him more or less. He was present

at the Saginaw meeting, but I do not think I talked with him about the affairs of the Bolo Club or its purposes at that time. I believe he was present when the resolution to endorse Senator Newberry as a candidate was presented. As I recall it now, he seconded it. I do not recall that he spoke upon the resolution. I do not remember whether or not I discussed with Mr. Mickel the matter of endorsing Commander Newberry at that time. Afterwards, if I recall correctly, Mr. Mickel was traveling about the state more or less in his official capacity, and whenever he reached a city where there was a prospect to establish a Bolo Club, I believe he undoubtedly used his influence toward its organization. The State Bolo Club of Michigan had no existence before the Saginaw meeting. Mr. Felvey of Detroit, Mr. Rice, the Commander-in-Chief at Detroit, Captain Bush and Mr. Payne, the Department Commander of Detroit, made suggestions as to the form of the circular letter that I prepared. I wrote for suggestions. Of course, in Detroit they had a Bolo Club already organized. Charles A. Floyd, of Grand Rapids, is not a member. I cannot recall seeing him in regard to this matter. I do not know who paid the expense of preparing, printing and sending out this circular letter. In answer to it, we received about 1,000 responses, and a pile of 25-cent pieces in them. I have always supposed that money went a long ways towards paying the expense. I handed that money to Mr. Rice. I did not hand it to the Treasurer of the Bolo Club of Michigan. Those responses came to the Bolo Club in an envelope addressed to the Bolo Club, 101 and 103 Lyon St. No compensation in connection with the preparation and sending out of this letter was paid to either Mr. Rice or myself, to my knowledge; only here and there some man would give $5 or something to help the cause of the Bolo Club of Michigan. I made a trip out into the state in connection with the Bolo Club in July, 1918. I made the trip at my own suggestion. I knew Charles A. Floyd in 1918. I was called by him to his headquarters in Grand Rapids at that time, and went. He and I discussed the matter of organizing Bolo Clubs in this State. After that I went to Detroit, Flint, Lansing and Grand Rapids. I did not go to the Newberry Senatorial Headquarters while I was in Detroit. After coming home, I received $25 from Mr. Floyd for my expenses.

CROSS-EXAMINATION BY MR. LITTLETON:

I have lived in Grand Rapids nearly 46 years except the part I spent in the war. I was interested in the Bolo Club in 1918 and was present at a meeting in Louisville, Kentucky, of men

who were members of the Bodo Club as early as that. I am a veteran of the Spanish-American war. The Bodo Club in its origin, as I understand, was composed of men who had served in the Philippines and the Islands. I judge the Bodo Club in the United States had been organized when I attended this meeting in 1913. That meeting was called together by men interested in that movement, for the purpose of organizing further clubs. I attended another meeting in Chicago in 1916 or 1917 in reference to the organization of Bodo Clubs. That was a meeting comprising the entire United States and was attended by representatives from different sections of the United States. I have always thought it was called for the purpose of further developing and organizing Bodo Clubs. That was the customary proceeding. The idea was to get the clubs started in Michigan and different states. I was sent from Grand Rapids to Chicago as a delegate to a convention of Spanish-American War Veterans. It was not at that convention but during the time of the convention that the Bodo Club was discussed. We never mixed the United Spanish War veterans up as a political body. The Bodo Club was a side issue from the Spanish-American War veterans. At the time we met in Chicago in 1916, Bodo Clubs had been organized in Ohio, California, Indiana, Iowa, New York—although in New York they did not call them Bodo Clubs; they had another name for them—and Illinois. I cannot say whether the Detroit Bodo Club was organized, but I know it was organized in 1917. I think Kalamazoo had a Bodo Club or it was in skeleton form, before the convention in Saginaw. That convention was held June 19th, 20th, 21st, 1917. It was the 15th Annual Encampment of the United Spanish War Veterans together with the other organizations I have mentioned. I should say a hundred people were in attendance from all parts of the state. The paper now shown me, General Order No. 2, is an official bulletin issued by the Department Commander November 21st, 1917, and was sent to all camps in the State of Michigan.

I knew that Mr. Newberry was a veteran of the Spanish-American War, and he was so recited to be in the resolution that was offered at the Saginaw convention. He was a member of the organization, and I presume he was so recited to be in the resolution. The resolution was adopted. After having been elected President of the Bodo Club of the State of Michigan, I was anxious to see that those who elected me took part and did their best towards furthering our purpose. I spoke to men from Flint, men from Lansing, and men from Saginaw and Bay City, and

asked them to get busy and help out, and they promised me they would. I also spoke to the men who were in Kalamazoo, and they promised they would do their part. The Commander-elect of the Spanish-American Veterans came from Kalamazoo. I insisted that he do all that he could to help. He promised he would; and I undoubtedly spoke to many of the other comrades that came from the different localities, such as Three Rivers and Coldwater, wherever we have camps. Afterwards local organizations in the various cities were skeletonized in form. The defendant Mr. Rice was a veteran of the Spanish-American War. I think he was the treasurer or secretary, sort of a manager, of the Detroit Bolo Club. He helped me a great deal. The papers now shown me are the circular or general letters which I prepared and sent out over my name under the circumstances stated in my direct examination.

The papers referred to by the witness were offered and received in evidence, and marked "Defendants' Exhibits Nos. 23 and 23-A, respectively. They were read to the jury as follows:

DEFENDANTS' EXHIBIT NO. 23.

Oscar E. Kilstrom, President,
Grand Rapids, Michigan.
F. C. Burnoaster, Vice-President,
Kalamazoo, Michigan.
M. R. O'Malley, Treasurer,
Battle Creek, Michigan.
John D. Falvey, Secretary,
229 Farwell Bldg., Detroit, Michigan.
MICHIGAN—Truth—Justice.

THE BOLO CLUB OF MICHIGAN,
Organization Headquarters,
101-103 Lyon St., N. W.,

Grand Rapids, Michigan, July 19, 1913.

Dear Comrade:

The BOLO CLUB was born in the Philippine Islands during the Spanish-American War. The men of the American Army and Navy realized that when they came back home they would have many things in common upon which they could secure quicker action by united effort. At the close of the Spanish War the scope of the BOLO club was extended so as to make eligible for membership men who had seen service in any branch of the Army and Navy, in the Civil War, Mexican War, Indian

troubles or any other war; also to include men who are or have been in the National Guard, Home Guards or in the present army and to include the Sons of Veterans or other military societies. This organization has spread, but only recently has there been any particular incentive to complete state units.

On account of the war condition, with a large number of men wearing the uniform, it was decided to establish a unit of the BOLO CLUB for Michigan and to include in its membership units mentioned above and at the recent Saginaw Convention the first three named organizations held a union meeting and elected the following officers:

President, Oscar E. Kilstrom, Grand Rapids; Vice Pres. Frank C. Burmaster, Kalamazoo; Sec. John D. Falvey, Detroit; Treas. M. R. O'Malley, Battle Creek.

Resolutions were adopted advising the members of the BOLO CLUB to support for public office, men who were 100% American, particularly men who are now or have been comrades in the service.

Fortunately for the people of Michigan and for the country in general a man has been named for the most important position of United States Senator who has had experience, having seen active duty during the Spanish-American War and who has had complete training and experience in all governmental and war activities as Secretary of the Navy under President Roosevelt, and who is now in the service, having been made Commander of the Third Naval District having in charge the Port of New York and the Brooklyn Navy Yards. His two sons are also fighting for their country and his son-in-law is now in the trenches before the German Army.

At the first meeting of the MICHIGAN BOLO CLUB, a resolution was adopted endorsing the candidacy of this Comrade—Commander Truman H. Newberry of Detroit, and you are requested to do everything in your power to assist in his nomination and election. This will not only be helping a comrade but will be helping yourself and other boys who are fighting.

Your officers will appreciate your advising promptly the names of any comrades who are candidates for public office, in order that all members may be notified.

Local BOLO PUEBLOS will be established as rapidly as possible. The dues will be only 25 cents per year, of which amount 5 cents goes to the State Bolo Treasury and 20 cents remains in the Treasury of the local Pueblo.

An application blank is enclosed herewith and will be pleased

to have you fill out and mail the same, the dues to be payable at such time as your local is organized.

Fraternally yours,

(Signed) Oscar E. Kilstrom,
President.

DEFENDANTS' EXHIBIT NO. 23-A

Oscar E. Kilstrom, President, Grand Rapids, Michigan.
F. C. Burmaster, Vice President, Kalamazoo, Michigan.
M. R. O'Malley, Treasurer, Battle Creek, Michigan.

John A. Falvey, Secretary,
229 Farwell Bldg., Detroit, Michigan.

THE BOLO CLUB OF MICHIGAN.

Michigan
Truth-Justice

Grand Rapids, Mich.

Object
To secure what is justly due for those who have served their country and those now in the service.

Composed of
Men now in the Service and Veterans of all Wars, Ex-National Guardsmen and Michigan State Troops.

My dear Comrade:

The records show that you have done your "bit" in the service of your country. The Bolo Club as you know is a National organization of military men banded together for the promotion of good for themselves and their families.

Of course you have done all in your power to help win the Great War and will continue doing so until our country's enemies surrender. That is the duty of every patriot.

Another duty confronts us. The duty of putting men into public office who are favorable to our cause. We want you to become a squad leader; organize your squad of eight men and on November fifth, lead them over the top for Commander Tru-

man H. Newberry whom we nominated for the office of United States Senator, and for Governor Sleeper whose Administration has so willingly cared for the needs of Soldiers and their families.

Comrade Truman H. Newberry answered the Country's call in '98—was later drafted as a member of Comrade Theodore Roosevelt's Cabinet where he performed his duties as Secretary of the Navy faithfully and well. At the outbreak of this Great War he joined the colors again. Not only that, but his twin boys are fighting for the flag, one in the Navy, the other in the Army.

Gov. Albert E. Sleeper has been very active in promoting everything for the good of the boys who are in the service and looking for their comfort and relief. He is deserving of the active support of all military men. Remember, too, that a squad leader is responsible for the presence of each member of his squad at the polls and we want you to show 100% present and accounted for, at reveille on election day.

The name of Commander Newberry, and Governor Sleeper, will be found under President Lincoln's picture on the ballot, which ought to be an inspiration to all of us.

Carl E. Mapes for Congress should be re-elected on his record. Roy M. Watkins for State Senator 16th Dist. is a son of a veteran and is a member of the Michigan State Troops. Thos. H. McNaughton State Senator 17th Dist., former member, should be returned on his record.

Yours in Bolo,
(Signed) Oscar E. Kilstrom,
President.

The letters were mimeographed, and the letter-heads were printed by the West Michigan Printing Company, he being the only comrade in the printing business, to my knowledge. I do not know who did the mimeograph work.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

I gave the job to the West Michigan Printing Company and some outside concern undoubtedly did the mimeographing. I do not know who paid for that. No meetings of the State organization were held after 1918. It never had any office or headquarters other than the West Michigan Publishing Company's offices. I do not recall that any circulars or letters of any kind were sent out by the State Bolo organization as such after the election of 1918. I have no copies of any such letters. Commander Newberry did not serve in the Philippines at any time,

to my knowledge. He was not at any time a member of th Bolo Club of Michigan. You cannot be a member of the Bol Club and be a candidate or be a public officer, so that when referred to him as "comrade," I did not mean that he was co-member of the Bolo Club of Michigan. I distinguish th Spanish-American War veterans from the Bolo Club in the par ticular that the former was a non-political organization whera our members meant the Bolo Club to be a political organizatio

RE-CROSS EXAMINATION BY MR. LITTLETON:

Our organization was a political organization only in the sens that it was intended to support any man who was a membe or a comrade who had served our organization, if he was effi cient and capable, regardless of his party allegiance.

WILLIAM BAILEY, being sworn as a witness on behalf of th Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Detroit since February, 1912. I am Presiden of the Detroit Federation of Musicians. I was in Detroit durin the year 1918. At that time I had known Fred Castator som time. I met him several times in 1918. On one occasion went to the Newberry Senatorial Headquarters with him wher he introduced me to Mr. King. The subject of the conversatio was they would be glad to have me interest myself in the New berry campaign, and the extent of my activities would be t make speeches to different labor organizations. Mr. Castato said they would pay me $40 per week. I did not go to work for them. Sometime after this conversation with Paul King, I re ceived a letter from Mr. Truman H. Newberry, which I destroy ed. The substance of it was that he would be glad if I would in terest myself in his campaign, that if an active campaign was carried on in Michigan it would have to be done through his friends inasmuch as his time was given up to the service of his country.

MARIUS HANSON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Grayling, Crawford County, Michigan. I have lived in Michigan all my life. My principal business is banking. I was at my home in 1918. I saw Mr. B. F. Emery some time dur ing the year 1918 at my bank in Grayling. He called and in formed me that he was out in Mr. Newberry's interest and want-

ed to know what the sentiment was in our county, and I told him that, so far as I was concerned personally, Mr. Newberry was my candidate, and he said he was very glad to hear it. He told me what Mr. Newberry's qualifications were and asked me if I would be willing to circulate nominating petitions for him in the village, and I told him I would be very glad to do so. Before he left, he picked up a magazine that was lying on the table, put it over in front of me, and underneath or in the magazine was a $50 bill. Nothing whatever had been said by me to him about the $50 or any other sum as compensation. When I saw the $50 bill, I asked him what it was for. I told him so far as I was concerned, I was not looking for any money; that I was glad to do this without any compensation, and he said, "We would like to have these nominating petitions circulated in the different townships in your county. It may be necessary to hire someone to do that. I realize that you would not be inclined to do it." And he said, if it was necessary to hire anyone to do this, to pay them out of this money. I expended $15 of that money. I did not employ men to circulate the petitions. I called up three men that I was acquainted with in the three different townships, and I knew that they were Republicans and asked them if they would circulate the petitions and they said they would be glad to do so. When they came in with the petitions, I offered them $5 for their trouble and they said it was not necessary, that they did not ask anything for it, and I said, "You might just as well take it; you used your car and spent some money for gasoline and you are entitled to something for your services." The other $35 was not expended nor returned.

CROSS-EXAMINATION BY MR. LITTLETON:

I had not known Mr. Emery when he called at my office. He and I discussed the qualifications of Mr. Newberry for senator. Nothing was said on that subject only that I said that I was quite well acquainted with his qualifications and that he was my candidate. These gentlemen that I called up in the townships were men that I knew. I did not know at the time I called them that they were Newberry men. I did not ask them if they were. I asked them if they would be willing to circulate the petitions. They said they would. I do not know how many petitions were circulated, because I understood there were others circulating petitions in the village besides myself. The three of them from the township and the one that I circulated myself are the only ones I know of. No suggestion or intimation was made to me by Mr. Emery to use money for any other purpose except the ex-

pense. I found that these men who had circulated the petitions did not wish to be compensated for the work they had done, and I suggested that they had used their car, or at least gasoline and ought to be repaid for it. They accepted pay for the work they had done, and I did not make any return of the balance of it.

FRANCIS O. LINDQUIST, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is at Greenville, Michigan. I have lived in Michiban about 15 years, and at Grand Rapids during that period up to last June. I served in Congress from the 11th District of this State, which is the Greenville District, for one term. I am in the mail order business. I know the defendant, Allen Templeton. I received a call from him during 1918 with reference to the Newberry primary campaign. I was then living in Grand Rapids. He came to see me at my office. I had known him ever since boyhood, the candidacy of Mr. Newberry for United States Senator was spoken of. Mr. Templeton said he was interested in Mr. Newberry. He told me that he was an associate of his but there was no direct request for my support. I suggested what I would do. I suggested a campaign similar to the one that I put up in my mail business with reference to my campaign for Congress. I said that I would frame up a campaign for Mr. Newberry if he would endorse the Pure Merchandise Bill which I introduced in Congress. He did not say anything about seeing Mr. Newberry. Mr. King never told me that he had seen Mr. Newberry with reference to the Bill. I afterwards got up some literature, a circular endorsing Mr. Newberry's candidacy, and at the same time having something to say about the Pure Merchandise Law. I brought the prospectus down there and showed it to Templeton and King. I did not have a conversation with Templeton in the meantime with reference to securing an endorsement by Mr. Newberry. The paper now placed in my hands and which has been marked "Government's Exhibit No. 63" is what I refer to as the prospectus. I had had a talk with reference to the letter there purporting to be signed by Mr. Newberry before I embodied it in the prospectus. I dictated that letter to their stenographer right there in the office when I laid the prospectus down. The letter included in this prospectus, that purports to come from Truman H. Newberry was written by me (except the signature) in Mr. King's office, in the Newberry Senatorial Headquarters. I do not know who signed

Truman H. Newberry's name to it. That came back with the rest of the copy O. K'd. Mr. Templeton did not tell me at that time that he and Paul King had seen Mr. Newberry and that he would endorse the Pure Merchandise Law and that I could go ahead with this prospectus. I do not recall ever having testified that way before the Grand Jury. I did not testify that Mr. Templeton told me that he would see Mr. Newberry and that he afterwards told me that he had seen him and that he would endorse my law. Mr. Templeton did not tell me at any time that he had seen Mr. Truman Newberry and that he had endorsed the law. He did not tell me that they took this letter that I wrote to New York and that Mr. Newberry signed it, and I have not so said, that I can recall. The circular purporting to contain the name of Mr. Newberry was attached to the rest of the correspondence which was returned to me from Detroit O. K'd by Mr. King. I had left it in the office with Mr. Templeton and Mr. King in Mr. Templeton's office. I never saw Mr. Templeton or Mr. King with reference to any matter afterwards. That was the only time I saw them with reference to that, and I never saw them afterwards with reference to my compensation. I went down to Detroit to get my money. I presented my bill to Mr. Emery. It was supposed to be five cents a letter. It was for $4557. $500, which was 10% of the cost of the work, went to me. The balance of the $4557 I spent for the circular letters that were gotten out. The papers now shown me are the circular which I have mentioned and a card and return post card pledging voters to vote for Mr. Newberry, which were sent out with them. I am satisfied it was Mr. Newberry's signature which appeared at the bottom of the letter I had dictated. The language contained in this circular is mine, including the letter purporting to be Mr. Newberry's.

The papers referred to by the witness were here marked "Government Exhibits Nos. 63, 64 and 65.

THE WITNESS: The language contained in this circular is mine, including the letter purporting to be Mr. Newberry's letter.

The papers referred to by the witness were here introduced and received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 63

HON. FRANCIS O. LINDQUIST
Grand Rapids, Michigan.

August 5, 1918.

My dear Sir:

I am enclosing a card which in itself sets forth the kind of

legislation that Truman H. Newberry stands for. He is a man of exceptional business ability. This coupled with his splendid record in National affairs gives us a man in whom we can place the utmost confidence. Such are the qualities our next Senator must have in order to cope with the problems that are vital to our future welfare. I quote here a letter written by Mr. Newberry:

"One of the most important problems with which our Government has to contend during war times is to prevent the taking of unjust profits from the pockets of the consumers. Hence I have taken a deep interest in the pure merchandise legislation as a means of reducing the cost of living. I consider it nothing short of treason for any man or corporation to further personal or business interests by using the war as an excuse for levying an unjust tax on common products which are sold over the counter. I shall be glad to help in any way I can to secure such a law for the protection of the people."

(Signed) TRUMAN H. NEWBERRY.

Using the war as an excuse for advancing prices, when labor costs and material shortage is not the cause, is profiteering and is in violation of the misrepresentation clause of the proposed pure merchandise law.

A pure merchandise law will prohibit the sale of adulterated goods for genuine, thereby saving the consumer the difference between the price adulterated goods are being sold at today and the price the consumer will pay under the restrictions of a pure merchandise law.

There is greater need for a pure merchandise law today than ever before, for never have the profiteers been more brazen in their operations, never in the history of our country have there been more adulterated goods sold for genuine than in the past few years. With the ever increasing price to the consumer, as the result of the unrestricted methods which are so frequently used in the sale of merchandise demands a federal law that will call a halt on the taking of unjust profits from the people;

I have worked and am working hard for such a law, and trust that you may feel as I do about the matter—that it is something we need just as soon as it can be had. It will do as much, or more, for us as the pure food law. If you agree with me, I hope you will join with me in helping to bring about the nomination and election of a man whose views mean his support of such a measure.

Sincerely yours,

Francis O. Lindquist.

GOVERNMENT EXHIBIT NO. 64

(POST CARD)

RECEIVED Aug. 20, 1918

(Addressed to) HON. F. O. LINDQUIST
GRAND RAPIDS, MICHIGAN.

PETITION FOR PURE MERCHANDISE LAW.

Believing in the urgent necessity of a law to prevent profiteering through the misbranding of merchandise and that Truman H. Newberry if elected to the U. S. Senate will urge its enaction. We hereby pledge our support.

Name	P. O. Address	Michigan
Paul Hamlin	Bravo R 2	Mich.
C. W. Holmes	Bravo R 2	"

Newberry is the man here

C. W. Holmes	R D No. 2	Bravo	"

GOVERNMENT EXHIBIT NO. 65

A PURE MERCHANDISE LAW.

Photograph of Truman H. Newberry, in map of Michigan with following caption below:

NEWBERRY
A WAR MEASURE FOR THE PROTECTION OF EVERY MAN, WOMAN AND CHILD IN THE STATE OF MICHIGAN.

NEWBERRY FOR U. S. SENATE). REPUBLICAN CANDIDATE

(On reverse side of card, as follows):

A Law that will stop profiteering.

A Law that will make misrepresentation a Crime.

A Law that will Prohibit the sale of Counterfeit Goods for genuine.

A Law that will Protect the Consumer's Pocket Purse.

A Law that will reduce the High Cost of Living.

A Law that will Help Win the War.

THE WITNESS (Continuing): These letters, Exhibit No. 63, were printed at C. C. Cargill's, in Grand Rapids. Approximately 100,000 of those letters were sent out in Michigan. I paid about

$1,200.00 for stamps, $600.00 for electrotypes, and about th same for folding and addressing. I bought lists of names. Afte these pledge cards came back to me, I wrote personal letters t each one of them. The pledge cards were destroyed in January 1919.

CROSS-EXAMINATION BY MR. LITTLETON:

I am the F. O. Lindquist, whose name appears in the repor made by Mr. Blair with $4557. In 1912 I was elected a Mem ber of Congress from the 11th, now the 8th District, and serve during 1913 and 1914. While in Congress I introduced the Bil with reference to the adulteration of merchandise which ha been referred to here. I gave special attention to that Bill an urged its passage before the committee to which it was referred I also did publicity work with reference to its passage. I dis cussed the Bill in my district. I devoted my time almost ex clusively while I was a Member of Congress to the work o pushing that particular bill. I gave interviews and speeches about it. When I was elected to Congress, I was in the mail order business at Greenville. After my retirement from Con gress I continued to advocate the passage of this legislation through my business by circulars. I have known Mr. Allen Templeton since I was a boy. I knew him at Marinette, Wis consin. Before this first conversation in Grand Rapids, I had not seen him for 25 years. When he called on me here, he talked considerably about other subjects and I suggested some thing with reference to this pure merchandise bill. He said he was interested in Mr. Newberry's candidacy—Mr. Newberry was an associate of his in some steel business, I do not recall now just what the nature of it was—and he was very anxious to do anything he could for him. I told him how I happened to go to Congress, how I happened to get elected, and by what method. I explained to him that the basis of my campaign was the pure merchandise law, and that I carried it on exclusively through the mails by presenting my views on the subject through circulars, to the extent of covering every voter. I explained to him in detail the whole method I had employed in my election. Then the question came up about getting up a campaign for Mr. Newberry on the same order. I told him I thought it would be an effective way of presenting Mr. Newberry's candidacy and suggested working it up and bringing it down to Detroit for their consideration. The basis of the campaign was to get Mr. New berry's endorsement of the principles of the pure merchandise bill. I insisted on that. After that I formulated a plan of the

campaign that I had in mind and took it down to Detroit and submitted it to Mr. Templeton in Mr. King's presence at the Newberry headquarters. Government's Exhibits Nos. 63, 64, and 65 comprised the prospectus which I submitted to Mr. Templeton and to Mr. King with the exception of Mr. Newberry's letter, which I dictated in their presence. I left the letter that I had dictated there with the papers which I called the prospectus, for the purpose of having it submitted to Senator Newberry and signed by him. It was at least a couple of weeks before I received any word from Mr. Templeton or Mr. King. Then I received a signed letter and the prospectus O. K.'d, on which I went ahead with the campaign. The mailing went on from day to day until it was all out. The letters were distributed generally over the state. I think we got through about the 20th of August. After I had done this work and had these circulars and cards mailed, I saw Mr. Emery at the Newberry headquarters in Detroit with reference to it. I presented my bill to him. Mr. Emery told me he took care of the bills there. Later in the day I returned and received a check.

W. J. CROTTY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

In 1918 I was living at 237 Maybury, Grand Rapids. Until June 15th I was employed as cashier and bookkeeper by the Estate of Helen H. Newberry, whose offices at that time were at 1224-1229 Ford Building. Up to June 15, 1918, moneys in various sums from the account of John S. Newberry, aggregating between $15,000 and $20,000, had been turned over to the Newberry Senatorial Committee. Checks were drawn for probably $15,000, sometimes $2,500, and other times $5,000, and the currency was delivered sometimes to Mr. Smith, and on one occasion to Mr. Emery. I do not just recall what amount of currency was given him at that time; I think possibly $1,500. Money that was furnished the Newberry Senatorial Committee was furnished in the form of currency at other times, probably in checks of $1,500, $2,500, $5,000. During the time that I was working in the offices of the Newberry Estate, the only people I saw there from the Senatorial Committee, besides Mr. Emery, were Mr. Paul H. King, and Mr. Cody. Truman H. Newberry had a private office in connection with the Newberry Estate offices which was occasionally used by Mr. King and Mr. Cody, with a stenographer for purposes of dictation or letter

writing. As an employee of the Newberry Estate I arranged to have a telephone put in the Newberry Senatorial Committee Rooms. Through the estate we had a little influence in getting the telephone in a little quicker.

WILLIAM H. McKEIGHAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Flint, Michigan, where I have been a resident ten years. I am in the drug business. I was mayor in 1914 and 1915, and have also been an Alderman. I have been acquainted with the defendant Richard Fletcher two or three years. I know Paul King slightly. I have known Fred Henry four or five years, and Mr. Castator of Detroit possibly a year or more. I know them all through political associations, except Henry; he was a personal friend. Prior to the summer of 1918 I was convicted and sentenced to two to fifteen years' imprisonment, as being an accessory for assault and robbery, and at that time my case was on appeal to the Supreme Court and pending in that Court. One evening in August, 1918, a week or ten days before the primary in Michigan, I saw and had a conversation with Mr. Fletcher, Mr. Henry, Mr. King and Mr. Castator at my drug store. The evening in question I was in the front part of the drug store seated at a soda table with two other people. Mr. Henry came in alone and asked if it was possible to talk to me privately, and I said, "Yes." We walked behind the prescription case which partly divides the store, and he told me there was two or three gentlemen who would like to talk to me, but did not care to have anyone see them up there, and wanted to know if I would stay back there and he would bring them in. I said, "Certainly." So he went outside and returned with Paul King, Fred Castator and Dick Fletcher. The conversation first was rather a general conversation in regards to the political issues. After talking a minute or two, Mr. King said this was his last trip through the state of Michigan, that he was making a final trip taking up slack where it existed and ironing out what rough spots existed. He said that I was one of the rough spots and the boys had not seemed to get me ironed out yet. He thought he would come around and see what was the matter; maybe he could arrange things a little better. I told him that I did not think he could. He said, "Well, you have an organization here that carries this district and particular section of the state anyway, and you certainly want to keep them in

working order, you might just as well get in and have them for Newberry, even though it does not interest you personally and they will be in better shape next time for you to use." I said, "Well, that is true, possibly." He said, "Well, what do you need to keep your line up here?" I said, "What do you mean?" He said, "Well, what expenses is it going to entail? We have quite a large expense account we can allow. We expect you do not want any for yourself, but you boys will need it for your workers." I said, "I do not need anything, I am not for Newberry, and I do not intend to be." Dick Fletcher spoke up then and said, "I told you before we came up here there was no use talking money to him. I know how to straighten him out. McKeighan has been with me before. He knows how I stand in Lansing, and regardless of whether Newberry carries the State of Michigan and goes as a United States Senator, or whether he does not, we will still retain power in the State of Michigan; and he knows well enough that his case is up in the Supreme Court there, and I am in shape so I can see whether it is affirmed or reversed, and if he wants to get out and work for Newberry, we will see that he does not go to jail, his case will be reversed; and if he don't, we will watch his district, regardless of whether Newberry carries the State of Michigan or not; it does not matter. If he carries this district for us, we will take care of you; if you don't, you are going to jail." He said he did not care to have me promise what I would do, because he would know by watching the returns. He said, "I know you can carry this district if you want to; and if you do not carry it, we know you are responsible." I should judge they remained there 15 or 20 minutes, possibly a little longer. After I had had this talk with these gentlemen, I figured it was safer to play on the safe side of it, so we kind of decided we would be for Newberry. I told the fellows that had been my main supporters in different elections to see that Newberry carried that district. Two of them happened to be in the store when the party came in, and I walked out in front of the store and told them the substance of the conversation, what it meant, the way it was put up to me. "Now," I says, "we better see that Newberry gets a very good vote up here; I do not care whether he wins or not." The district was carried for Newberry. My case was reversed. During the conversation I have testified to, Mr. Fletcher referred to the preceding election when Mr. Sleeper was elected Governor. "Now," he said, "the last time we carried this district with the other wing of the Republican organization against us; Freeman and Johnson and their crowd were against

us. This time we have got them lined up first; we have been to Freeman and taken care of Johnson, and they are lined up, so that we will have both wings of the organization. We would not care to have them know you are lined up." He mentioned something about giving Johnson money, I think it was about $200, but did not say what he done to Freeman.

CROSS-EXAMINATION BY MR. LITTLETON:

I was an Alderman in Flint in 1912-1913 and 1913-1914, and was elected Mayor in 1914 and served just one term of two years—1914-1915. I was convicted in April, 1918. The charge was assault and robbery, while not armed with a dangerous weapon. I have lived in Michigan 13 or 14 years. I came from Cleveland, Ohio, where I was born. Two or three years previous to this conviction, I was tried for the illegal sale of liquor, but for no other offense before that, or since then. I think I met Mr. Paul King in Detroit, when he was receiver for the P. M. Railway, about two or three years before this occasion that I have told about. Fred Henry introduced me to Mr. King. I know Mr. Fletcher quite well. Henry lived in Flint and I think he worked for Mr. Fletcher in August, 1918, or he does at the present time. I met Mr. Castator in LANSING the first time, but I got better acquainted with him at a little banquet at Mr. Henry's house, probably six or seven months before the campaign in 1918. I had had a good deal of familiarity with public affairs at the time these gentlemen called at my place of business. I had been active in politics for six or seven years. I knew some of the members of the Supreme Court of my State. I hardly believed that Mr. Fletcher and these men could influence the decision of the Supreme Court of my State; I did not believe in taking any chances, however. Politics is funny. I presumed that my case was to be decided by the Supreme Court upon the record that had been made in my trial. I did not know anything against the integrity of that Court, or any member of it. When I talked with Castator, King, Henry, and Fletcher, we were all back of the prescription case. I was alone with them, but there was other people in front of the prescription case, and it was in the presence of these other gentlemen that Mr. Fletcher said to me, in substance, that there was no use talking expense or money to me; and also said to Mr. King, in my presence, in substance, that if I was for Newberry, my case would be reversed, and if I were not for Newberry, my case would be affirmed; and he said that in the presence of Mr. King and Mr. Castator and Mr. Henry. When he made that state-

ment, I had my doubts. I did not think that I was making a bargain by which the Supreme Court was to be delivered in favor of my case, and the decision in my case—not exactly, no. Fletcher seemed to be doing all the talking. I made no statement. I made no reply at all. I did not tell him whether I could or would not work for Newberry. He said he did not want me to give any statement—"No use of your replying now. Of course, we will watch your district; we will know what you do." My district was the north end of the First Ward of Flint—the factory district. I say that because I wanted to be on the safe side, I immediately put Mr. Livingston to work in my district. He is a man that has helped me politically there. At that time he was foreman for me in a garage I ran. I also put Mr. Delmore to work and asked him to protect me against Newberry. Mr. Delmore is a man that had been with me politically there and was employed, I believe at that time, by the Walker-Weis Company. I also spoke to most of the fellows that had been in the habit of working for me about carrying the district for Newberry, among others Arthur PINCOMB, a carpenter, and the Weavers. I repeated to Livingston, in substance, the conversation I had had back of the case. I said, "It looks as though we better be for Newberry."

The first year I ran for Alderman, I ran on the Independent Citizen's ticket. For Mayor, I ran on the regular Republican ticket. In 1918, up to the time Mr. Fletcher spoke to me, I had been supporting Mr. Osborn a little. I had not been out talking for him very much, but I did talk to my followers about him. I was supposed to be the leader of my district, but I made no statement there publicly in favor of Mr. Osborn. I believe my district was carried for Newberry. I am inclined to say it was. I had informed myself on that subject. I never claimed to anybody I could carry the district. I spoke to all the boys that were working up there for me. I did not get out any literature; I did not need to. I did not circulate any literature or go to any meetings, and I did not hold any meetings. I spoke to possibly twenty men about Newberry's candidacy. I spoke to all the men that had been active. I do not believe I saw Mr. Henry from that time up to the primary election. I believe that my district was carried by Newberry. I have not looked at the record of the primary returns lately. I did everything for Newberry after the primary, though my case was still pending in the Supreme Court and had not been decided. I thought it was safe and I also did not think it was safe not to work for Newberry after the primary. I presume I saw some of these gentlemen

during the campaign after this meeting behind the prescription case in my drug store, but I could not say for certain. I talked to Mr. Henry many times about the campaign, not particularly, but generally. I have never talked to Mr. Fletcher or seen Mr. King since. I did not come out for Mr. Newberry after they had been there, in a public statement or in a newspaper statement of any kind. I had not been out in any statement before that for Mr. Osborn.

HUGH A. STUART, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Flint, Michigan, 11 years. I am a physician and surgeon. I was an Alderman in Flint for two years and I was elected State Senator in the fall of 1916, and served one term. I was a candidate for State Senator in the primaries of 1918. I know the defendant, Richard Fletcher. In January or February, 1918, I met him in the lobby of the capitol building and had a talk with him. He said to me, "I understand you are going to support Mr. Osborn for United States Senator," and I says, "I am going to." He says, "You had better wait and do not declare yourself for anybody for some time, because we have got a man coming out for United States Senator that wants to be United States Senator bad, and is going to spend a lot of money to get it; we want you with us." I asked him who it was, and he said it was a man residing in Detroit, "and right at the present time I cannot give you his name, but we will know in a few days." Two or three days after that Mr. Newberry was announced as a candidate for United States Senator. Along about the middle of June, after the Newberry campaign was well under way in our county, the defendant, Fred Henry, called me up and asked me if I would come up to the Dresden Hotel; that they wanted to see me. After I got through in the office I went up to the Dresden and met Mr. Fletcher and Mr. Henry. There was nobody else present at the conversation. Mr. Fletcher said to me, after a general conversation, "I have come down to Flint to fix up some of you boys that are not in line. You are a candidate for State Senator a second time. We are going to defeat every man, either state or county, who does not line up with the Newberry Campaign. Mr. Henry here is handling the money in this county. He is going to build up an organization strong enough to defeat all of you men who are not with Mr. Newberry. You are going to

e defeated if you do not get on and help elect him. The man who wants to be a candidate for State Senator against you is waiting for us to give him our support of the Newberry organization, along with his own, to put him across." And I gave him to understand that if that was their final decision, that I had nothing to do with it, because I was a candidate for State Senator for myself, and was not going to be mixed into any United States Senator fight, and did not want to be loaded on with any other candidate besides my own. When Fletcher said that "Fred Henry here is going to handle the money in Genesee County," Mr. Henry said that they had sent a good many of the men around through the county, and that they had already taken care of most of the townships, and that he was going to see that the men in the county that worked for Newberry would be against me. This candidate that they mentioned that night announced his own candidacy against me about three nights after that. Mr. Henry was there along with several other men. I was not present. I know, as a matter of fact, that the defendant, Henry, did take an active part against me, together with the Newberry organization, in that county, after that time. I was defeated.

CROSS-EXAMINATION BY MR. LITTLETON:

I have known Mr. Henry intimately for eight or nine years. I never was in his office in my life, but he had been frequently in mine during those years. We have been in politics together. I was a candidate for State Senator in 1916; I think he had supported me at prior elections. There had been no friction between us during those years. I had the Osborn petitions circulated.

Q. Did you employ people to circulate them?

MR. DAILEY: The Government objects for the reason this is not cross-examination.

THE COURT: I sustain the objection.

MR. LITTLETON: I except.

Q. Did you receive money for having the petitions circulated?

MR. DAILEY: The Government objects.

THE COURT: I sustain the exception.

MR. LITTLETON: Exception.

THE WITNESS (continuing): I think Mr. Henry said something to me in the Dresden Hotel about my having circulated Osborn petitions. The only time that I had any conversation with Mr. Henry in the Dresden Hotel was this one occasion

with Mr. Fletcher. During that conversation he said that he had been my personal and political friend for years. He also said, "If I can beat you for State Senator, I am going to beat you if I have to mortgage my car to get the money." After that conversation took place, I said to him there, "I did not get any money;" but I do not remember that conversation. I felt somewhat embittered and I continued to feel embittered toward Mr. Henry, but not personally—politically—and I have maintained that feeling since, not personally, but politically. I felt aggrieved after my conversation with Mr. Henry in the Dresden Hotel, not disappointed.

OMER W. LIVINGSTON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Flint and am service manager for the Cook-Barnes Motor Company. I was living at Flint in the summer of 1918. I am now, and at that time was, acquainted with William McKeighan, of Flint, with whom I have been associated ever since he entered politics. In 1918 I was acquainted with the defendant, Henry, and I also knew the defendant, Richard Fletcher. I was not acquainted with Mr. Paul King or Mr. Castator at that time. I was present at the McKeighan drug store upon the occasion when Mr. Henry came there. Mr. Henry came in, called Mr. McKeighan to one side and held some conversation with him. Mr. McKeighan stepped back of the prescription case with Mr. Henry. Later Mr. HENRY went out and brought in three other men. The only one I knew was Mr. Fletcher. They went just back of the prescription case. While they were there, I heard them talking. I should judge they remained 15 minutes or so. Then Mr. McKeighan went as far as the door with them and bid them goodbye. I believe I was in the store during all the time they had been there until Mr. McKeighan accompanied them to the door. Mr. Delmore was in the store during the time these men were there.

CROSS-EXAMINATION BY MR. LITTLETON:

At the time these gentlemen came to the drug store, I was garage foreman for Mr. McKeighan. He had a public garage. I have been working for Mr. McKeighan since 1915. I helped him slightly in the drug store before that time as a clerk. I was with him when he was Mayor, for possibly six months, in a private capacity, working in the drug store.

GUS J. PAMMEL, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Niles, Michigan, and am a life insurance agent. I lived in Niles during the year 1918. Early in the primary campaign of 1918 I received some Newberry petitions from the defendant, Albert Berger, who lives at Benton Harbor. I circulated those petitions myself. A little later I had some talk with Mr. Berger about his furnishing money to me, in connection with any work I might do for Mr. Newberry. I saw Mr. Berger in Niles; if I remember rightly he was in company with Mr. Dukeshire, and somebody else from Benton Harbor. I think that is all that I met Mr. Berger with. I do not think he had met Paul King and Charley Floyd at the time I saw them. I did not see them all together during the day. I learned from Mr. Berger that he was there to meet Mr. King and Mr. Floyd. He did not tell me what his purpose was in Niles. I understood from Mr. Berger that Mr. King was going with the party to Benton Harbor. During the progress of the campaign Mr. Berger turned over $30 to me which I expended; no money was spent on the circulation of petitions, but money was spent on the circulation of Newberry literature. I circulated this literature in Niles and Buchanan, and employed people in both places. I paid out about $22 for the circulation of literature; $4 was expended for jitney fare between Niles and Buchanan for a trip that I took to take the literature over on two different times, I paid $2 to a girl for making a mailing list. There were no other expenditures by me. This $30 was given to me by Mr. Berger on two occasions; $25 at one time, and $5 at another.

RAYMOND F. CAMAND, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 48 Cardoni Avenue, Detroit. At this time I took care of the freight at the Ford Building, and I was so employed in 1918. I had charge of the freight elevator. I know that there were Committee Rooms on the third floor known as the Newberry Senatorial Committee, and I was acquainted with some of the persons who were occupying those rooms. I know Mr. Turner and Mr. Emery. The first thing I did in connection with these rooms when the Committee took charge was to

take the furniture up there. I also took up mail and some other things there, chairs and desks and tables, and some mail and package stuff. The literature and mail was ordinarily handled on trucks, and was used at room 410 on the fourth floor. I had been employed there at the building before this Committee moved in. I recall primary day, August 27th, 1918. On the night of that occasion I took care of the Newberry people there. I run the elevator that night. Mr. Emery requested me to do that. I operated from eight in the evening until four thirty in the morning. Mr. Turner paid me $12.50 in cash for that. A few days after the primary, I took about two baskets of mail and waste paper from that headquarters, containing three or four bushels each, which was burned down in the basement. Two young boys that were working up there in 410 had charge of that. They were working there before. It was not a usual thing for tenants to take waste paper to the basement and burn it. These boys did not say anything about the tenant, but people that works there, the boys take it down, that is all. Usually, the waste paper of the tenants of the Ford Building is baled and sold. I had no conversation with any one connected with this committee about taking charge of their waste paper. I do not remember exactly the day this paper was burned with reference to the primary, but a couple of days or three or four after, I guess, I do not remember exactly. The same Committee continued to keep these rooms after that until Election day. On that occasion Mr. Emery asked me again to run the elevator, and I did so. For this he paid me the same sum—$12.50 in cash. These two boys who were working there did the actual burning of this paper in the basement. The janitor—the fireman—was not there.

CROSS-EXAMINATION BY MR. LITTLETON:

I operated the elevator on primary day and also at night. After primary day, waste paper was brought down but not mail. They did not burn any mail. The waste paper was taken from the fourth floor to the basement and burned. In running this elevator the night of the primary election, I took up people for the purpose of hearing the returns of the election.

MARTIN J. WILLIAMSON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit and am, and in 1918 was, night janitor at the Ford Building. I was acquainted with the floors on which the

Newberry Senatorial Committee had their offices, and learned to know some of the men in and around the headquarters. I knew Mr. B. F. Emery. Along in the summer he employed me to look after the Senatorial Committee rooms at night. Men were to be admitted at headquarters at night by a small blue card signed by Mr. Paul King. I never had occasion to collect any of these cards, and I only saw them in the hands of Mr. Emery and one other man. Mr. HARRY TURNER paid me for the work that I did. I got my money in the Newberry Senatorial rooms. Mr. Turner got it in the vault. He came out from the vault with a plain envelope and paid me in cash. I was night watchman from the first of August, 1918, until about the 5th of September, 1918. Mr. Turner gave he $62.50 all at one time.

CROSS-EXAMINATION BY MR. LITTLETON:

My hours of watch were from the time the place was vacated, generally about 10:30 or 11:00 o'clock, until there was relief come in the morning, about 7:45, 8:00 or 8:15. I have been night janitor right along, and had been before the first of August, 1918. I was given orders to admit nobody into those offices except they had a card; I would admit no man unless he had his credential or blue card.

RICHARD COUMANS, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Bay City 35 years. In August, 1918, my residence address there was 604 North Henry Street. I received the envelope and letter now shown me through the U. S. mails.

The papers referred to by the witness were marked "Government Exhibits Nos. 66 and 66-A" respectively, and read to the jury as follows:

GOVERNMENT'S EXHIBIT NO. 66-A

Postmarked: "New York City, Grand Central Station, August 21st, 12 M, 1918."

Addressed: "Mr. Richard Caumas, 604 N. Henry, Bay City, Mich."

GOVERNMENT EXHIBIT NO. 66

Truman H. Newberry,
Detroit, Michigan.
New York City, August 17, 1918.

Mr. Richard Caumas
604 N. Henry,
Bay City, Mich.

My Dear Mr. Caumas

It is very good of you, indeed, to sign the petition for me for United States Senator and I wish to express my great appreciation.

I will be unable, on account of my work here in the Third Naval District, to come home to thank you personally as I would very much like to do, and so am writing you. I shall always try to merit your confidence in me.

Again thanking you, I remain, with best wishes,

Sincerely yours,

Truman H. Newberry.

THE WITNESS (continuing): I did not, in fact, sign a petition for Mr. Newberry in 1918.

CROSS-EXAMINATION BY MR. LITTLETON:

I do not know whether or not Mr. Newberry had been advised that I had so signed a petition.

OTTO F. HABERMANN, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Gladstone, Delta County, Michigan. I have been acting as Deputy City Clerk about 11 years, and have an office in Gladstone. Some time prior to the primary in 1918 I saw the defendants, Judd Yelland and Henry Dotsch. I think they came over to the City Clerk's office in Gladstone. I had a talk with Mr. Yelland at that time. Mr. Dotsch might have been present. I don't just recollect. I remember Mr. Yelland gave me some pamphlets at that time, and later he gave me $10. I think he came back to Gladstone before the primary at that time. I think he was alone in the car. He asked me when he was there the first time to get some other fellows to do work for Mr. Newberry in the 4th ward, to help distribute a little literature for Newberry. He requested me to get these men to work at the polls on primary day. He gave me some money for other people

afterwards, but that was probably later on, when he brought the literature over there at that time. Mr. Yelland gave me $30—$10 for me, $10 for another man, and $10 for still another man, each of whom was to go to a different precinct and to stay at the polls on primary day. I hung around the polls a little on primary day for Mr. Newberry, and I asked August Olson and Mr. Charles Murray to go to the 4th Ward for him. I gave each of them the $10 that Mr. Yelland gave me, that is all the money I got.

CROSS-EXAMINATION BY MR. LITTLETON:

I had known Mr. Yelland for a good many years. Before he came to see me on this occasion I was a Newberry man. He asked me if I was in favor of helping the Newberry campaign along. I told him I was; I would do what I could for Mr. Newberry; so I received quite a bunch of pamphlets from him for distributing, which he asked me to distribute for him, and which I turned over to Olson and Murray to distribute. I told them to get busy and do what they could to distribute all the literature they could; there was quite a lot of it. Olson was a bill poster and Murray is a railroad engineer. I don't think it was over two days after Judge Yelland was there, that I saw Mr. Olson and Mr. Murray. I gave Olson and Murray literature for distribution on more than one occasion. I told them that Mr. Yelland had given them $10 apiece for the purpose of campaigning. I think I paid them the money on the arrival of the literature, or just about the time. I think Mr. Yelland brought it there himself, in an automobile, if I am not mistaken. I distributed some of it in the town. Olson, Murray and I distributed some out of town. I do not think I had any trips out of town, for the purpose of distributing literature. There was several trips that went up through Rapid River. Some parties were going up, so I took this literature with me. I understand that the money Judge Yelland was paying me was for the purpose of distributing the literature. When I employed these men I told them they were to boost for Newberry, that I employed them to use their best efforts for Newberry, and that I wished them to distribute literature. When Judge Yelland talked to me he said I was to employ these men, Olson and Murry, for the purpose of distributing literature.

RE-DIRECT EXAMINATION BY MR. DAILEY:

I would not say the money was paid for the purpose of distributing literature and going to the polls and working, boost-

ing for Newberry, and using their influence for Newberry, not for using their influence. I would say boosting. They were supporting him. Both Olson and Murray belonged in the 4th ward; they could not work outside of their ward. I talked to them about the fact they were to stay at the polls on primary day. According to the last census Gladstone has a population of 4,200.

J. BURT KEILY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Roscommon, Roscommon County, Michigan. I am JUSTICE OF THE PEACE at present and Superintendent of the Poor. My business is that of an abstractor of title of the county. I have met B. F. Emery, a defendant, since the Newberry campaign in headquarters at Detroit. I was designated secretary of the Newberry Senatorial Committee in my county during the campaign, on their list. I called once in May, 1918, at the headquarters. I talked as to the campaign with Mr. King and Mr. Emery. Mr. Templeton was in the room a moment or two. I talked to Mr. Harry Turner, although there was not much said about the campaign. Mr. Emery delivered $50 to me that day, in cash. I received no other money during the campaign. The $50 included my expenses to Detroit. I do not recall whether anyone was present at the time Emery gave me this $50. He handed me the voucher and an envelope in the Newberry Senatorial Headquarters. Mr. Emory was in Roscommon twice during the campaign, as I recall. I received the letter now shown me from him.

The letter referred to by the witness was here received in evidence as Government Exhibit No. 67 and read to the jury as follows:

GOVERNMENT'S EXHIBIT NO. 67

TRUMAN H. NEWBERRY,

For Republican Nomination for United States Senator,
310 Ford Building,
Detroit.

State Committee.
A. A. Templeton,
General Chairman.
Paul H. King,
Chairman, Executive Committee.

Charles A. Floyd, May 1st, 1918.
Secretary.
H. A. Hopkins,
Director of Publicity.
Mr. J. Bert Keily,
Mgr. Roscommon County Abstract Company,
Roscommon, Michigan.

My Dear Mr. Keily:

I could not resist acknowledging the receipt of your splendid letter of the 29th, by wiring you this morning. The sentiments expressed by you have been universal throughout the state.

Owing to the illness of our field man, Mr. B. F. Reed, who had intended calling on you before this, I stated in my telegram that we would be very glad to see you in Detroit as soon as convenient for you. Mr. King is touring the Upper Peninsula and will be away until about the 14th. In his absence, I have been looking after details and we are very anxious to perfect an organization in Roscommon County at an early date. I am going to impose upon your good nature by asking you to submit your ideas in writing if you cannot come down and one of us will call and see you at an early date. I am taking the liberty of forwarding you fifty leaflets and cards, which will give you a little line on our candidate. We have kept out of extensive publicity at Mr. Newberry's personal request, pending the closing of the Liberty Loan and Red Cross drives.

I am forwarding your letter to Mr. King with copy of this and you will no doubt hear from him direct.

With best wishes for your success and that of our future organization in Roscommon County, I remain,

Sincerely yours,

B. F. Emery."

BFE/X

CROSS-EXAMINATION BY MR. LITTLETON:

When I called at the Detroit office of the Newberry Senatorial Committee, I saw Mr. King and had a conversation with him. I may have met him at conventions or something, but I was not personally acquainted with him. As I came in the office I met Mr. Turner, an old schoolmate of mine, and we visited. There was nothing much said about the campaign. He told me Mr. King was out then and would be in later. Mr. Turner and I were boys in school together, but I had not seen him for many

years, except occasionally. My conversation with Mr. King was a general resume of the conditions as they appeared to me in our locality pertaining to the Newberry candidacy. I was a Newberry man before I saw Mr. King. I do not know that I could go into the details of the conversation I had with Mr. King on that first occasion, but I explained our situation as I understood it and we went into it very thoroughly. I suggested that under certain conditions it would be wise to have a very complete organization in our county; under other conditions that it might not be so necessary. I had written to Mr. King before I went down there, and before I had any talk with him. I first received a telegram from Mr. Emery replying to my letter followed by this letter which has been put in evidence as Government Exhibit No. 67. I opened up the correspondence myself. I desired to support Mr. Newberry and so wrote him. After I received the telegram, which I did not keep, I received this letter (Government Exhibit No. 67), which refers to my letter of the 29th of April. Later I also received some leaflets or advertising matter—Newberry's literature. I think I received some early before I went to Detroit. I did not send any ideas in writing about organization until I went down and talked it over. When I saw Mr. King I had already had this correspondence. We discussed the perfecting of an organization in Roscommon County. He knew I had already volunteered to do anything that I could for Mr. Newberry; I presume he took it for granted that I would act there as one of the Newberry men. I told him I would. At that time we planned perfecting a township organization, which was not done. I did my work individually, and was not aware that I had been called secretary until some time later. When Mr. King and I first talked, we discussed the advisability of forming the township organization. Mr. Templeton took part in the conversation for a few moments. Regarding this $50 that was given me that day, this letter does not refer to it but in a subsequent letter they asked me to come to Detroit, stating that my expenses would be paid. We talked about the fact that there would be some expenses in connection with that, and Mr. King said to fix up my expenses for coming down there—I believe that was about the words he used—and Mr. Emery determined the amount. It was let go at that. What I did in my county or town in the organization or work for Newberry for Senator was to circulate certain petitions and distribute literature. I was around the County considerable on other matters, and I did what I could to further the interests. I distributed literature personally around the County, and mailed

a lot of it, and I distributed more or less around the village. I never attempted to balance my expense account; I do not know which way it would have balanced. I received the letter now shown me from Mr. King, and about November 12th I received the other letter from Mr. Newberry now shown me.

The letters referred to by the witness were marked Defendants' Exhibits Nos. 24 and 25 respectively, and were read in evidence as follows:

DEFENDANTS' EXHIBIT NO. 24

Truman H. Newberry
For Republican Nomination for United States Senator

310 Ford Building
DETROIT

State Committee

A. A. Templeton,
General Chairman.

Paul H. King,
Chairman Executive Committee

H. A. Hopkins,
Director of Publicity.

Marquette, Michigan.
May 6th, 1918.

Mr. J. Burt Keily,
Mgr. Roscommon County Abstract Company,
Roscommon, Michigan.

My dear Mr. Keily:

My office has forwarded me your good letter about Mr. Newberry, and I am delighted to know that you feel as you do about it.

He is certainly a splendid man for the office of Senator and I am sure that you will not regret anything you may say or do in his behalf. As Mr. Emery wrote you, I shall be glad to have you write us often and give us any information or suggestions that you think might be helpful. They will be most welcome, I assure you.

As you probably know, we will have a Newberry organization there and I hope you may take an active part on it. Possibly you may be coming to Detroit or could make it a point to come down, so that we could talk the matter over. I expect to be

back next Tuesday and would be glad to see you, I would, of course, expect to take care of your expenses.

With kind regards, I remain,

Sincerely yours,

Paul H. King.

PHK:S

DEFENDANTS' EXHIBIT 25

TRUMAN H. NEWBERRY

DETROIT, MICHIGAN.

New York City,
November 12, 1918.

My dear Mr. Kelly:

I wish to thank you most sincerely for your efforts in my behalf in the election last Tuesday. Considering the character of the campaign which was made against us and all of the circumstances with which we had to contend, I feel that our success is truly remarkable.

I am deeply grateful for the expression of confidence in me and shall do my best at all times to prove worthy of it.

With every good wish, I remain,

Sincerely yours,

Truman H. Newberry.

Mr. J. Burt Kiely,
Roscommon, Mich.

MAX J. HERRMAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Mt. Clemens, Michigan, and am engaged in the hotel business. I was living in Mt. Clemens in 1918 and was then connected with the Sherman House. Some members of the Newberry organization held a luncheon at my place on July 30th, 1918. The defendants Paul King, William T. Hosmer, and George John, and Mr. Nellis were there. There was quite a few from the court house. Altogether 28 persons were there. I could not say for sure who had made the arrangements for that luncheon. They called up about half past eleven and wanted to know if I could serve 25 to 30 luncheons from the court house. After luncheon we were standing there at the desk and they asked me how much it was. It was Mr. King and some other gentleman there. I told them it was a dollar a plate, $28 and they laid a $50 bill on the counter. I could not say for sure

whether it was Mr. King or the gentleman that stood alongside of him. There was three or four others around. I gave them $22 change, which they took.

CROSS-EXAMINATION BY MR. LITTLETON:

I gave them the regular luncheon that we serve. There was no particular arrangement made for it, with the exception they asked if I could feed 25 or 30. I was not present and do not know what took place at the luncheon.

FRANK P. ROBARDS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Hillsdale, Michigan, and was living there in the summer of 1918. I was then acquainted with the defendant, E. B. Chilson. He is ordinarily known to his acquaintances as "Burt." I saw him in the summer of 1918 before the primary. I met Mr. Chilson on the street. He says, "You are just the man I want to see." I says, "Is that so?" He says, "I got stranded and I am away from home; I spent a little more money," or, "I stayed a little longer than I expected to, and I am broke, and I want you to identify me at the bank." I says, "Sure." So we walked down to the bank, and as we walked in there was two or three customers ahead; so we stepped back by a desk. He says, "Well, what's the news?" I said, "Nothing; this is a very quiet peaceful little city, we do not have much news." "Well," he says, "I was down to Detroit the other day, down to the Newberry headquarters, and those boys down there are doing business." I says, "Is that so?" "Yes," he says, "they have tapped the barrel and the very first thing, right off from the bat, they gave the City Committee of Detroit $50,000 for their influence for Newberry." I said, "$50,000?" He says, "Yes, I know it." He says, "They are spending money like drunken sailors." At that time the customers passed by and I went up to the window and I identified him with Mr. Bothelisberger.

CROSS-EXAMINATION BY MR. LITTLETON:

I was not in opposition to Senator Newberry in the primary. I was a Newberry man, but I did not vote for either one of them at the primary. I took no part in the primary election for anybody.

Q. Or in the election?

MR. DAILEY: We object. That is not cross-examination. Only a conversation has been inquired about. It does not seem to me that whom a man supported would make any difference. This is not a political matter; it is to see whether or not an offence has been committed; and whom some man happened to support would not disqualify him from jury service, or a witness. It would not make any difference in the case. I asked about a conversation back of the primary. They have asked him whom he supported at the primary. He said nobody. They asked if he took part in the general election.

THE COURT: I will sustain the objection to the last question.

MR. LITTLETON: I except.

THE WITNESS (continuing): I have known Mr. Chilson for several years. I could not give the exact date of this meeting of mine with him in Hillsdale. I think it was along in June; might have been the last of June or 1st of July. I do not know exactly; I could not give you the date. I do not know that at that time Mr. Chilson was not connected with the Newberry campaign. I had not seen Mr. Chilson for a long time. I did not see the check, sir, I had cashed for him. I do not know anything about it. It was for a nominal sum, $25 or $30. Mr. Chilson may have told me he was there to see his customers in Hillsdale, to whom he was making sales, or attempting to make sales, but I do not remember it. Our conversation was about his being broke, and about the political situation; he got the money, and we parted. I do not reside in Detroit, but I always supposed there was a City Committee, but I did not know anything about it. I do not know the personnel of the committee, and did not know anything about it. He told me that the boys in Detroit had given the City Committee in Detroit $50,000. I did not know at that time there had not been a City Committee, and that the work in Detroit had been done by a County Committee for six years prior to that time. I do not know anything about it. I know Mr. Paul King very well. I have known him for eight or ten years, I guess; something like that. I was associated with him in the Townsend campaign in this state.

Q. After that time, did you and he have a falling-out?

MR. DAILEY:: We object as not cross-examination.

THE COURT: I sustain the objection.

MR. LITTLETON: I offer it for the purpose of showing the witness's attitude toward one of the accused persons. I except.

THE WITNESS (continuing): I know the defendant, Mr. Priedau.

Q. And you had a falling out with Mr. Priedau?
MR. DAILEY: Wait a moment—
THE COURT: I will sustain the objection.
MR. LITTLETON: I except.

HUGH A. MADIGAN, another of the defendants named in the indictment but who had entered a plea of nolo contendere, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Flint, Michigan. I am Chief Inspector, Factory 5, Chevrolet Motor Company. I have been engaged in the automobile business pretty near 14 years. Prior to that time I was Chief Inspector of Plant 35, Buick Motor Company. That is what I was doing in 1918. As chief inspector of this plant, there were a large number of men under my supervision. I know Fred Henry. In 1918 he lived on Detroit Street in Flint. Sometime during the spring or summer of 1918 he came to my home and asked if I had lined up in any way to work to elect a United States Senator. I told him I had not. He asked me who I had in view, or who I thought I would support. I told him I had not considered it, and he asked me what I thought of Newberry. Well, I told him that I had not studied up much on the campaign yet, or the candidates. He also asked me what I thought of Mr. Osborn, and I told him I did not think I would support Mr. Osborn. He also asked me what I thought of Mr. Ford, if Ford was going to be a candidate. I told him I thought Ford was a pretty fair man. So he went on and told me he was going to be campaign manager of Genesee County for Mr. Newberry. He asked me if I would support him, and I told him I would consider it. So we talked there between two and three hours. Before he left I had decided that I would line up with Mr. Newberry. He said, of course, that he did not expect that we would devote our time for nothing. He asked me what I would expect if I would swing my support to Mr. Newberry. I told him I thought it was worth $150; and he asked me if Dr. Stewart had made me an offer to line up for Osborn. I told him he had not, but I told him I thought $150 for the amount of work that I would do, would be fair. So then he told me that he would expect that I would devote all my spare time from that time on, until after the primaries, and I told him, if I had to do that, I couldn't do it for $150, I would have to get more than that. Well, he said, he wouldn't let that stop him; that if I went out and devoted my

time I would get twice that amount; he didn't just use them words, but it was taken for granted that I was to get twice $150; that is the way I took it. He gave me $15 that evening. He told me that there would be some petitions out, and he wanted to know how many signers I could get. I told him between 700 and 1,000 throughout the factories. He told me that was very good. I think he brought me some petitions to get signed the next day, or the second day after I had talked to him. I distributed them amongst the different foremen and superintendents throughout the different factories of the Buick. No money was given to me for that purpose then, or at any other time. I had those petitions circulated, and then after they were signed I gave them back to Mr. Henry. I would say the next money paid me by Mr. Henry was about six weeks afterwards at the Dresden Hotel. The defendant Mr. Fletcher and Dr. Hugh Stewart, of Flint, were there that evening. They were in the room when I went in. Dr. Stewart left first. Mr. Henry paid me $50 that evening in the hotel lobby. That night Mr. Fletcher and Mr. Henry outlined the different ways that they were going to handle the campaign. For instance, Mr. Henry spoke of getting poll workers, and different things; and he told Mr. Fletcher that I would get some good workers throughout the factory to work at the polls on primary election day. I could not say whether Mr. Henry and I had a talk before with reference to my securing workers at the polls, or whether this was the first conversation I had with him about it. We had several different talks on that. I furnished him with the names of Jack Fennin, a man named Waite, and a man who was Chief Salvage Man in Factory 38 of the Buick, whose name I can't recall. I also recommended Fray Diem and Wilson Young. I told Mr. Henry any that I thought was good workers, and he told me to have them see him, and he would take care of them and let them know what he expected them to do. I brought them down, and had them meet Mr. Henry. I think I took them all to the Electric Cigar Store, where he talked with them, but that was not in my presence. He took them in another room. I gave them his address, and they were at his house one night, two or three nights after the primaries, when I was there. Mr. Fanin, Mr. Waite, and I think a gentleman by the name of Pearl Winn, was there that night. We all sat on the porch, and talked for a while, and as he wanted to see or talk to one privately, he took each one separately back into the house and talked with them. He then came out again and took another. I did not go back in the house with Mr. Henry. I was the last one that was there, and he give me $50 or $60 after

they had all left. I got $10 twice, in between the first night that he interviewed me, and the time that I got the $50 in the hotel, and the other. I attended a meeting at the home of Mr. Henry during the campaign. Richard Fletcher and Paul King were there. That was supposed to be a Newberry meeting. After the meeting I went up to McKeighan's drug store, where I saw Paul King and Richard Fletcher. I don't recollect the other man. There were several men in there. The party was there when I got there. They were in the prescription room, I think, at that time, in there or in another room back. I saw them start to leave. I was standing talking to George McKeighan and Mr. Henry started out, and the others started and then stopped. Henry came on and told me that they were in trying to get Mr. McKeighan to line up for Mr. Newberry, and went on to tell me the position that Mr. McKeighan was in—it would be a good thing for him to line up. The first night when Mr. Henry came to my home and talked with me he told me that if I supported Mr. Newberry, and if he was elected, that he, Fred Henry, was a real close friend of Mr. Fletcher's and Mr. Fletcher was a close friend of the governor's and there was going to be some vacancy in the state job or position for offices, and no doubt if Mr. Newberry won, the boys that made a good showing would have the preference and get an appointment for one of these state vacancies. The same subject was brought up in the Dresden Hotel again on the night that I have spoken of. Mr. Fletcher spoke of it, and I asked what money there would be in that Deputy State Oil Inspector, I think it was. He said something like $1200 a year. Of course, I told him that I couldn't see where I could work for $1200 a year. Then it was decided upon that George Luce was going to take the posiion. At that talk in the Dresden Hotel, after Dr. Stewart had left, they asked me if Mr. McKeighan was with Newberry, and I told him I didn't think he was; I didn't know; so he said that it would be a good thing for him if he was, in the position that he was in, as Mr. Newberry was sure going to be elected. If there was any chance for any leniency for Mr. McKeighan, that he would get it if he was on the side that won. This conversation in the Dresden hotel with reference to the primary was five or six weeks after my first interview, and about 10 weeks before the primary.

CROSS-EXAMINATION BY MR. LITTLETON:

I have lived in Flint about 13 years, and have occasionally been active in politics during that time. I am a Republican. At the period that has been inquired into I was connected with the

Buick. I should judge I have known Mr. Henry six or seven years, maybe a little longer. He is a lumberman. I did not know Mr. Paul King prior to the campaign of 1918. Prior to 1918 I had worked with Mr. Henry in political matters in other campaigns and in different years. I lived about a mile from him. I had no social intimacy with him, and our families did not know each other. I had never met Mr. Fletcher personally before that time. I had heard of him. The one man I knew in 1918 personally was Mr. Henry. We had a local ticket running in 1918 in the primary at Flint. I had taken no interest in the local ticket before Mr. Henry spoke to me. I was interested in Dr. Hugh Stewart for state senator, and I was going to give him what support I could. He had already been in the State Senate. I was not interested in any other candidate on the county or local ticket. I do not believe I can fix any nearer the date when Mr. Henry first spoke to me with reference to the candidacy of Mr. Newberry for senator. It seems as though it was pretty near three months before the primaries that he came to me first; may not be that long; may be a little longer. I don't think it was as early as May. Mr. Ford was not a candidate at that time. He was spoken very much of being one, and I know that shortly after that that he was figured as a candidate. At all events he had been talked about as a candidate enough to have it discussed at this meeting with Mr. Henry. I forget whether I spoke of the likelihood of Mr. Ford's candidacy to him or he did to me; but anyway, he asked me what I thought of Mr. Ford as United States Senator, and I told him I thought Mr. Ford was a fairly good man. I did not say I would support him, or that I would not. He told me then that he was manager for the campaign for Mr. Newberry in Genesee County. I decided that night that I would join him in the support of Mr. Newberry, and told him so. He asked me to use my influence amongst the employes I came in contact with, also asked me to distribute literature through the factories, get petitions signed, and invite different men from the factories to any Newberry meeting that he had. He gave me some literature shortly thereafter and petitions. I distributed the petitions amongst the different foremen for them to take around to their respective departments and have them signed. I would say I had between twelve and fifteen petitions on which signatures were obtained. Some petitions were partially filled, and some were all filled. On the filling in of those petitions, they were returned to me, and I delivered them to Mr. Henry. I did the work of circulating petitions before I distributed the literature, which I think I got from

Mr. Henry at the same time he gave me the petitions. There was no headquarters or office for the Newberry candidacy in Flint that I knew of. I distributed the literature that Mr. Henry gave me around different departments throughout the Buick factories. I did that with all the different kinds of literature. I always carried some. Anybody I met, I handed them some. On this first night when I talked with Mr. Henry, and he wanted me to devote all my spare time to the primary campaign work, he asked me how much I wanted for the work, and I told him—that is, before he told me he wanted me to devote my full time——I thought $150 would be fair enough for working through the shop, as I met a man or talking to the different foremen, or something of that kind, and, occasionally at night, to do what little I could for him; and he told me he would expect I would give the biggest part of my spare time, to that work and I told him then I would not think of doing it for that much, because, I said, I would not work in the factory for that wages, for the amount of hours I would put in. So then he said, "$150, something like that. We will just make it twice that much. How will that do?" I said, "That would be fair enough." He told me he could not give it to me all at once, but he would see that I got it. He said he would give me his word on it. I told him I would give the biggest part of my evenings, and Saturdays, or any time I had, at his disposal, any time he wanted me to go anywhere. I attended just one meeting in the evening after that talk with Mr. Henry that I know of. I distributed literature throughout the street, and on primary day I passed literature and Newberry cards to different men I met. I mean I distributed literature throughout the city of Flint, not making a street canvass, but as I met my different friends. I gave on an average two hours a day to the work of the campaign, including the evenings. I was with Mr. Henry several Saturday afternoons and done his distributing of literature, or something of that kind, and discussing the campaign in different ways with him. I was with him during the campaign the biggest part of the time evenings and spare time from my factory work. In the neighborhood of 10,000 men were employed in the different numbered Buick plants at that time. It was probably four weeks before the primary that Mr. Henry asked me to recommend the names of these men to him. I knew them personally. I know that after Mr. Henry had met them and talked with them with reference to the political campaign they were poll workers. I do not know any more what they did between the time he talked with them and the primary election than to say a good word for Mr. Newberry.

They distributed literature amongst their friends and in Gen particular factories. I would say the meeting I attended at th house of Mr. Henry, where Mr. Fletcher and Mr. Paul King an Mr. Castator were present was about three weeks before the pri maries; maybe just two weeks; a short while before the pri maries. Between 60 and 70 persons attended that meeting. Mr Henry himself presided. Speeches were made, or talks. Mr Henry was the gentleman that introduced the different peopl that were there, and Mr. Earle Johnson called on the differen speakers. Practically everyone that was there had something to say, all in favor of Mr. Newberry's candidacy. McKeighan's drug store, where I went that same night after the meeting was about two miles from Mr. Henry's residence. The drug store is out in the North end, the industrial end, and Mr. Henry's resi dence is on Detroit Street. I got to McKeighan's along about eleven o'clock. I rode down in a car with some party that was at the meeting and was going that way. I do not know who it was. I understood that Mr. King and Mr. Fletcher and them were going up there. I thought I would drop up there too. They were there when I got there. They were in what they call the prescription room. Neither William McKeighan, nor his brother George McKeighan who was also there, told me that they were trying to get him or his brother to support Newberry. Mr. Henry is the one that told me. I would judge I talked about five or ten minutes before Mr. Henry come out and I probably talked twenty minutes with him. They were probably there somewhere in the neighborhood of an hour. The discussion concerning my probable appointment to an office was with Mr. Henry. He told me here was going to be some state offices va cant, that the boys were connected with the Republican party, on the winning side, and that Mr. Fletcher was a friend of his, and if a fellow made a good showing and wanted that kind of a job, that he thought Mr. Fletcher could probably get him one. That was an appointment under the state administration that we were talking about. Mr. Henry said that Mr. Newberry and Mr. Sleeper were on very intimate terms, and that if there was any vacancy and if a man wanted them, that through Mr. Fletcher he could probably get one for him on account of Mr. Fletcher was working for to elect Mr. Newberry and was devoting a lot of his time, and through a favor for Mr. Fletcher that he would appoint somebody that Mr. Fletcher would recommend. I learned that the position would pay about $1,200 a year. It did not interest me very long. I think the Daily Journal said there was about 18,000 auto workers in Flint at that time. In this

conversation with Mr. Fletcher at the Dresden Hotel, he told me that in the position Mr. McKeighan was in that it would be a good thing for him to line up for Mr. Newberry. He says he knows the weight he carries with the Government, and if he was convicted and sentenced that he would use his influence with the Governor, to get a pardon for Mr. McKeighan. Nothing was said about the Supreme Court of the state. I cannot remember whether anything was said at that time about the reversal of his case. At the time that this meeting was held in the hotel I do not think that Mr. McKeighan had even been convicted, but I couldn't say as to that. It did not interest me enough at the time. Mr. Fletcher said, in the way they started, that Mr. McKeighan thought that Mr. Fletcher got him in wrong with the Governor at one time. That Mr. McKeighan was to the Governor's office —I don't know what it was about or anything else, I can't just recollect what it was—he thought that Mr. Fletcher had double-crossed him some way and Mr. Fletcher told me that night that he hadn't double-crossed him, and that he could convince him that he hadn't. I can't remember when Mr. McKeighan was tried. I could not say if he had been tried then. I did not know when I was talked to with reference to this possible appointment to a state position under the administration of Governor Sleeper, that Governor Sleeper and Mr. Newberry were not in sympathy with each other politically.

I am one of the persons in the indictment in this case. Of the others who are indicted, outside of Mr. King and Mr. Henry and Mr. Fletcher, I know Father Hewett and I understand there is a gentleman named Green, and another whose name I do not remember that is indicted and I knew them in Alpena. These are all of the persons accused in the indictment that I knew at that time. I had never talked with the two gentlemen from Alpena at that time. The only persons to whom I talked with reference to this campaign were Mr. Henry, Mr. King, Mr. Castator and Mr. Fletcher. The most of my conversation was held with Mr. Henry. I have not seen a copy of the indictment which names me as one of the accused persons but I know with what I was charged in the indictment.

Q. Did you conspire with any of these defendants to violate the federal statutes or any state law?

MR. DAILEY: We object to this because it is not cross-examination.

THE COURT: I will sustain the objection.

MR. LITTLETON: I understood, if your honor please, that as to a witness in the position of this witness, I was permitted to

ask that question on previous occasions, and I would like before your honor rules—

THE COURT: That is not the question you have asked here tofore.

MR. LITTLETON: I asked a witness yesterday if he conspired with anybody to violate any statute—Mr. Merrill.

THE COURT: There wasn't any objection made.

MR. LITTLETON: Would your honor before you dispose of the matter let me submit my views about it?

THE COURT: I don't care to have it. I am satisfied that I have gone even beyond the limit really. The intent of this defendant is a matter wholly immaterial.

MR. LITTLETON: I take an exception to that if your honor please; I don't think that statement is proper.

THE COURT: You have excepted, and your exception is noted.

MR. LITTLETON: I don't want to thrust my opinions upon the court, but I would ask leave, if the court please, to present at least the views that we have upon the subject. If your honor has made up your mind, and does not wish to hear any views of ours, of course I will take my exception.

THE COURT: Very well, your exception is noted.

THE WITNESS (continuing): In what I did in this political campaign which I have described in my testimony, I had no intent, purpose or object to violate any laws.

RE-DIRECT EXAMINATION BY MR. DAILEY:

Q. You did intend to accept $300 of the Newberry money, didn't you?

MR. LITTLETON: I object to that if your honor please, as not re-direct examination.

THE COURT: You may answer.

MR. LITTLETON: I except.

A. Yes, sir, and I intended to accept it for my help and influence towards securing votes and aid for Mr. Newberry.

Q. And at that time you knew that a fund had been provided for that purpose, didn't you?

MR. LITTLETON: I object to that as not being within the knowledge of the witness, being based upon hearsay and rumor.

THE COURT: You may answer.

MR. LITTLETON: I except.

THE WITNESS: All I know of any fund, Mr. Henry told me that he made arrangement in some way so that he could take care of the amounts that he said he would give me, and he would see that I would get it.

Q. Didn't he say to you something on the subject of money being no object—in one of the conversations he had with you during the primary?

MR. LITTLETON: That I object to upon the ground that it calls for a formulation of the testimony of the witness. It certainly is not re-direct examination.

THE COURT: So far as that is concerned the objection is untenable. You may answer.

MR. LITTLETON: I except.

A. He told me that there was going to be a large amount of money expended in this campaign. He said that it would be on both sides, and he said that he had made arrangements to take care of the boys that he had working in Newberry's interest in Genesee County.

Q. What if anything did he say to you about securing an additional sum of money when Mr. Fletcher would come down?

MR. LITTLETON:: I still object to it upon the ground I stated before.

THE COURT: You may tell us if he said anything.

MR. LITTLETON: An exception.

A. He said one time when he was at my place that he expected that he would have had some money for me, but that he hadn't got to Detroit and that he expected when he see Mr. Fletcher that he would have some money.

THE WITNESS (continuing): Mr. Henry spoke about the Bolo Club and said that this Mr. King was the manager of the campaign work throughout the state, telling me that he would be in Flint sometime, and that he wanted me when he was there to meet him. I do not think Mr. Fletcher lives in Flint. I intended to assist Mr. Henry in employing men to work at the polls on primary day. I didn't expect they would work for nothing, lose a day's work at the factory and not get something for it. Mr. Henry had told me that he would take care of them. During the primary Mr. Henry and I had a conference with reference to a man by the name of Tom Halligan in Flint. Mr. Henry spoke of Mr. Halligan and wanted to know from me whether he could get Mr. Halligan to help him in the campaign, and what I would figure would be a right amount; and I think Mr. Henry told me that he offered to give him $25 a week salary. He asked me what I thought of that, and I told him I thought that was all right. He said Tom wanted $400. I understood him to say that he wanted that, and that he could not give him that much, but he would give him $25 a week and put him on the office pay roll as he called it. At the time I have been speaking about Mr.

Henry held a state position. He was deputy state factory in spector.

RE-CROSS EXAMINATION BY MR. LITTLETON:

I didn't work for Mr. Stewart at all. Any of my friends tha I could say a good word for him, I did, and I continued to sup port him. Mr. Halligan lived at 1704 West Saginaw Street. H has pool rooms and bowling alleys; a ball player; he is owner o the Flint baseball team. I think I made the arrangements t have Mr. Halligan meet Mr. Henry. I would not say that brought Mr. Halligan to Mr. Henry's attention as being a goo man to work in the campaign. I think Mr. Henry knew jus as well as I did that Mr. Halligan was a good man.

WILLIAM H. PORTER, being sworn as a witness on behal of the Government, testified as follows:

DIRECT EXAMINATION:

I have lived in Lansing since 1865. I was eight years in th city council, and two years sheriff. I know the defendant Mr E. V. Chilson. I saw him in Lansing in the spring of 1918. H told me that he was there to get someone to look after the in terests of Truman H. Newberry in his candidacy for United States Senator, and asked me if I would take hold of the matte in our county, and organize it. There was no further conversa tion except on my part, when I said I couldn't do it. I was to busy and out of politics. He said that there was an organiza tion to boom Mr. Newberry's candidacy, and that there wa finances or money enough in sight to finance the campaign an pay the expenses, if there were any, in organizing the county I said, first, "You and I have been in politics a good many years and worked together, and you know I never took a dollar for an work I did, or for any expenses." He asked me if I had anyon whom I would recommend, and I said, No, I wasn't very much i touch at that time with the workers, and I didn't know wh would be a good man.

CROSS-EXAMINATION BY MR. LITTLETON:

Mr. Chilson made no suggestion to me with reference to th use of money, except for the expenses, and that was all th money that was referred to in connection with it.

JOHN LOGAN, being duly sworn as a witness on behalf o the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Perkins, Baldwin Township, Delta County. I am a farmer and justice of the peace up there. I know Judd Yelland and Henry Dotsch, and was introduced to James F. McGregor, who was with them at my home one day. There was a little conversation between me and these gentlemen. Within five minutes after they had gone away from my home, or were leaving, I saw Yelland again. He gave me a $5 bill, and told me he wanted me to go up to Friday's in the northeast corner of our township—a few lumber camps—and see the boys and distribute some literature. He wanted me to take a car up there. I did not do it. He gave me no other money except this $5. He wanted me to take up there some printing matters, around county election and also state election. He wanted me to support Mr. Newberry, and gave me some Newberry literature. When he gave me the $5 he said to go to Friday's and see the boys and "That is enough to pay for your car," and he told me to support Mr. Newberry. This occurred about the middle of August, 1918.

CROSS-EXAMINATION BY MR. LITTLETON:

When Mr. Yelland asked me to go out of the county, about eight miles from my place, I told him I would, but I didn't go, and I did not return the $5 to him.

ROY HERALD, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Highland Park, Michigan. I am a lawyer and was in that profession in 1918, practicing law in Detroit. I know the defendant Mr. Chilson. I talked with him at different times during the summer of 1918. I could not locate any particular conversation. Mr. Chilson talked with me relative to making some speeches. There was a meeting of registers of deeds at Mt. Clemens in the summer of 1918, at which I was present. I went there at Mr. Chilson's request. He said that they wanted a speaker and it would be a personal favor to him if I would go. He asked me to report to Mr. Chester Chubb, or Chet Chubb, and be governed by his directions. I went to Mt. Clemens and reported to Mr. Chubb. I made a speech there. Mr. Chilson requested me to go to a great many places during the campaign.

I was requested to go to Barryton and did so. I think it was in July. I did not speak at any other places, outside of the two mentioned, other than the appointments I made in the city of Detroit. As to this Barryton meeting, Mr. Chilson said there was going to be a Republican rally there, and they wanted a speaker to represent or to speak for Mr. Newberry. This was after the Mt. Clemens meeting which was the first one which he requested me to attend. He said nothing about paying me for the Mt. Clemens meeting. I afterwards billed the Newberry Senatorial Committee $25 for the meeting, and received a check and got the $25. The Committee—whoever sent me the check—paid me for the Barryton meeting. I billed the Newberry Senatorial Committee because I understood that Mr. Chilson was with the committee in some capacity. After I billed them and they paid me, I took it for granted he was. I also billed them $25 for two noon day meetings at the Morgan & Wright plant in Detroit. There was only one meeting, but there was a mistake in the arrangement. I went twice, and only spoke once, and got $25. I billed them $25 August 22nd for a meeting at 1120 Gratiot Avenue; August 23rd $15 for a noon meeting at the Denby Motor Truck Company; and $25 for a meeting that night at 1480 Fort Street, West, so that I received $90 in all for these Detroit meetings. At each of these meetings I spoke for Mr. Newberry at the request of Mr. Chilson. I billed the Big Rapids, or Barryton meeting, the whole trip two and a half days' time from the office, at $125; car fare, $11; hotel and miscellaneous expenses, $17.25, making a total of $153.25 for the whole trip. I went there at the request of Mr. Chilson and my speaking was on behalf of Mr. Newberry.

CROSS-EXAMINATION BY MR. LITTLETON:

I did not bill the Committee for any meetings except those which took me away from my office in the day time, except in one instance; that was the West Fort Street meeting, August 23rd, for the reason that the meeting practically spoiled the day, from eleven o'clock in the morning on until eleven o'clock at night. Between these two meetings, by the time I got back to the office, it was too late for work, and matters had to be arranged differently. There was one other evening meeting at 1120 Gratiot Avenue; I billed them for that. I made a great many speeches in the night time in Detroit during the campaign. I did not bill them for one meeting out of ten in Detroit. I should think I have known Mr. Chilson about 30 years, maybe a little

etter. I was informed of Senator Newberry's candidacy for he Senate before Mr. Chilson spoke to me.

CHARLES P. O'NEIL, being sworn as a witness on behalf of he Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit, Michigan, and am an attorney. My office is located at 826 Dime Bank Building. I was located in Detroit, and engaged in the practice of law, in 1918. I know the defendant E. V. Chilson and was acquainted with him in 1918. I had a conversation with him in reference to speaking in the Newberry campaign preceding the primary. He said that he understood that I had been State Chairman of the Progressive Party, and that Newberry had been a Roosevelt man, and he wondered if I was favorable to Mr. Newberry's candidacy. I told him that I was, and he asked me if I would be able to make some talks for him, and I said that I would if he called on me when it was convenient for me. He called on me later. The first time he asked me to go down to the Republican Club picnic at Bois Blanc, which is 16 miles out of Detroit. I went there and made a speech for Mr. Newberry. I also went to a Church picnic at Milford and made the best sort of a speech I knew how on the subject of Newberry's candidacy. I spoke at several factory meetings in Detroit, and also at Benton Harbor on the same subject. Before I started I believe Mr. Chilson said that I would be recompensed for my expenses and actual time. No price was agreed upon between us. That was after I told him I was informed of Mr. Newberry's candidacy. I presented a bill for $300 for my services, which Mr. Chilson paid. I think it was a check which I got in the committee offices in the Ford Building. They settled with me there.

CROSS-EXAMINATION BY MR. MURFIN:

The picnic I spoke of may have been at Put-in-Bay. It was down the river at any rate. I remember making a speech on the middle deck of the boat on the way to Put-in-Bay on the 6th day of August, 1918. Governor Osborn spoke just before I did. Joe Monaghan was the Chairman of the Republican County Committee during that summer. They did not have any City Committee then.

LOUIS A. SKORY, being sworn as a witness on behalf of the Government, testified as follows:

I live in Grand Rapids and am a Clerk in the City Clerk's office. Before that I was connected with the Echo, a weekly paper published in the Polish language. I am an American by birth. In the spring of 1918 I got a letter from the Newberry Committee headquarters advising me that they wanted to carry some advertising. From that time on I carried the newspaper advertising in my paper at advertising rates, thirty cents an inch. I received for the regular advertising from the Newberry Senatorial headquarters a total of $97.20. The advertising was in Polish. I did the translating. I was furnished with some copy in the form of pamphlets in English. I also printed circulars—10,000 the first time. The order was duplicated later. Two other lots of 10,000 pamphlets each. I think that there were three lots ordered at the same time, and one lot was duplicated. I sent the bill to the Newberry headquarters at Detroit and received a total of $230, in addition to this $97 which I spoke of a while ago.

CROSS-EXAMINATION BY MR. LITTLETON:

I remember a lot of pamphlets that I printed that could not be used. Those we destroyed. They were larger than the state law allowed.

WILLIAM MOORE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Muskegon. I am City Assessor there at present. I was living in Muskegon in 1918. I know the defendant William J. Mickel. I saw him in Muskegon before the primary of 1918. I think he stated at that time he was over to organize some Spanish American War Order of some kind. He had some little thing in his hand which he said was some of Mr. Newberry's advertising matter. He said, "This is our man." I said to him I was a Democrat: I supposed he was of course. That is about the extent of the conversation in that regard at the time. After that Mr. Mickel called at my house in Muskegon. He had some petition blanks for Mr. Helme which he requested me to get signed. I told him I had already been with another gentleman and got some petitions signed for Mr. Ford; I could not do anything like that. He left the blank petitions with me. He said he was going over to the Great Lakes Training Station that night and get some names on the Helme petitions.

ED D. ENGEMANN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Belding, Michigan, and am the publisher of a newspaper known as the Banner News. I call my business the Banner Publishing Company. I am the Secretary and Treasurer of it, and the active head.

In addition to the two items reported in the certified copy of the receipts and expenditures of the Truman H. Newberry Senatorial Committee, namely, $3.08 and $12.54 (page 4), the Banner Publishing Company received from the Truman H. Newberry Senatorial Committee $18.04 on the 21st of August and $18.26 on the 13th of November, 1918. We had a contract with the Committee to run the weekly advertising that continued for some weeks, at the rate of 22 cents an inch. That was our regular rate for advertising, positical or otherwise.

CROSS-EXAMINATION BY MR. LITTLETON:

We got $3.08 on the 13th of June, $12.54 on the 26th of July, and $18.04 on the 21st of August. The third payment on November 13, 1918, was by check. I have no memorandum as to who drew the check or of the bank on which it was drawn, and no recollection of who signed the check.

RE-DIRECT EXAMINATION BY MR. DAILEY:

This payment that we received in November came from the Newberry Senatorial Committee. It was for advertising done on the 7th, 14th and 21st of August—all before the primary.

HERBERT C. SMITH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I am the editor of the newspaper called the Climax Crescent published in Kalamazoo County. I was engaged on that paper and at that place in 1918. At that time I had some arrangement with the Truman H. Newberry Senatorial Committee for advertising which was embodied in a contract of which the paper now shown me is a copy.

The paper referred to by the witness was marked GOVERNMENT EXHIBIT NO. 69.

THE WITNESS (continuing): I think I got the paper now shown me before I got the contract.

The last paper referred to by the witness was marked Government Exhibit No. 70 and both papers were received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 69

ADVERTISING CONTRACT

TRUMAN H. NEWBERRY

For Republican Nomination for United States Senator.

Sign duplicate
and return
to committee
310 Ford Building

May 10, 1918.

The Truman H. Newberry Senatorial Committee agrees to use a total of 150 inches of space in the Climax Crescent, between May 25, 1918, and September 1, 1918, for which it agrees to pay the rate of 20 cents per running column inch, payment for service to be made monthly upon receipt of bill and additional space to be furnished pro rata, all advertising announcements to be in the form of electros.

While no preferred position is exacted under this contract, it is requested that a position apart from other advertising matter be accorded whenever convenient to makeup.

THE TRUMAN H. NEWBERRY SENATORIAL COMMITTEE.
By H. A. Hopkins,
Director of Publicity.

Accepted.

GOVERNMENT EXHIBIT NO. 70.

TRUMAN H. NEWBERRY.

For Republican Nomination for United States Senator
310 Ford Building,
Detroit.

State Commitee
A. A. Templeton,
General Chairman
Paul H. King,
Chairman Executive Committee
Chas. A. Floyd,
Secretary
H. A. Hopkins,
Director of Publicity.

My dear Publisher:

In our efforts in behalf of Mr. Newberry, we appreciate fully the value of the helpful co-operation of the newspaper men of

Michigan, and, although we have been active but a very short time, we are pleased to find that a large number of publishers are being attracted to his candidacy because of his outstanding fitness for the office of United States Senator. We do not think it is fair to you, however, to even suggest that you devote to his candidacy any advertising space, which, is, of course, your stock in trade, without adequate compensation. We shall, therefore, expect to pay your regular rates for any space used in connection with the campaign, except, of course, in the case of news items or material of a non-political character, which you would probably like to use as general interest matter.

After the close of the Liberty Loan and Red Cross campaign, we would like to place with you a series of advertisements of, say six inches, double column, each, to run regularly each week up to the time of the primary, which is on August 27. If you would care to do so, we would be glad to have you prepare a contract on your usual form covering the matter, specifying your rates for this kind of advertising and providing for monthly payment by us on receipt of your bill; all additional space to be furnished pro rata and all advertising to be in the form of electros.

In connection with our advertising we will have an occasional item of news or semi-news nature, concerning Mr. Newberry, not of a political character, possibly five or six in all, and we would appreciate it if you could run those stories without charge, it being understood that they will be furnished in plate form, all charges prepaid, and have no relation to the advertising.

We would not, of course, expect preferred position under the contract, but would like to feel that position apart from other advertising matter would be accorded us whenever convenient to make-up.

If you would rather that we would prepare a form of contract along these lines, we will be glad to do so upon hearing from you, or, if you prefer simply to write us that the matter as herein outlined meets with your approval, we will consider your letter as completing this arrangement.

Cordially yours,

H. A. Hopkins.

Electros were sent me after that. The total amount of advertising I carried was $45.40. That was paid me. I could not say now where it come from. It came to me by mail. It was for advertising preceding the primary.

CROSS-EXAMINATION BY MR. LITTLETON:

The name of my publishing company is the Crescent Publish-

ing Company. I think I returned my bills for the advertising in the name of the Crescent Publishing Company, and I think I received my checks accordingly. I won't say how they were signed. I cannot say whether one bill was for $26.20 and another for $19.20, making a total of $45.40. I know the total was $45.40. I have not got the bills.

EARL R. CHAPMAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Kalamazoo, Michigan. I am, and in 1918 I was, accountant and office manager of the Kalamazoo Gazette. The Kalamazoo Gazette did not at that time have a contract with the Truman H. Newberry Senatorial Committee for advertising that I know of. There was some advertising carried in the Kalamazoo Gazette by the Committee. I think $198 worth of advertising was done preceding the primaries in my paper. No contract was made; it was billed at the card rate. We received payment on that advertising after it was run. It started on June 1st. I do not recall the exact dates when payment was made, and I am not sure from whom payments were received on the primaries; I think they came from Detroit. The business of the Kalamazoo Gazette was conducted under the name of the Kalamazoo Gazette-Telegraph Company. There was only one paper published there by the company. I think payments were made in connection with the primary advertising by three checks. The last one, I remember, was $72. I would say that $190 or $198 in all was paid in connection with the advertising for the primary, somewhere along there. I have looked over the certified copy of the report of the Treasurer of the Truman H. Newberry Senatorial Committee filed by Mr. Frank Blair, which shows one item of $72 and one for $53.25. I remember the $72 because it happened to be the last amount that was paid for the August advertising. I could not identify the other item of $53.25. I know there were other items besides the $72, but I am not absolutely sure that that was the amount.

Referring to the ledger sheet now shown me, the following payments were made on account of the advertising for the primary by the Truman H. Newberry Senatorial Committee: July 12th, $53.25; August 13, $49.88; September 9th, $72. Those payments were made by check from Detroit.

CROSS EXAMINATION BY MR. LITTLETON:

The ledger account shows $53.45 paid July 12th; 20 cents

shows there as the discount to balance, rather than to take it up for such a small amount. That is the item I identified as being the first payment. I received that by check. As I remember it, they were all checks. I do not remember from whom the check was received or who drew the check or on what bank it was drawn. As to the next item I gave "August 13th, cash $49/88," we always state it as cash, whether it is a check or cash; it does not make any difference. It does not really mean cash. That $49.88 was a bill rendered to the Truman H. Newberry Senatorial Committee or it would not have been credited to that account. I have no receipt for it. I checked it up with the advertising that I did at that time. The bill for the $72 item of September 9th was rendered to Truman H. Newberry, 310 Ford Building Detroit. The check for the item of August 13th, might have been received the day before; our day ends at eleven o'clock and possibly it might have come in the day before and been entered in our cash under that date.

W. H. RICTER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I lived in Grand Rapids 42 years. I am in the carving department of the Widdicomb Furniture Company. I am acquainted with the defendant George Welsh. I met him in 1918 during the primary at the Pantlind Hotel at one time, and we spoke about the campaign. I asked if he was going to run for representative. He says, yes. He says, "By the way, you are a Spanish-American War Veteran, aren't you?" I says, "Yes." He says, "Then you will be for Newberry?" I says, "Yes, I suppose the entire camp will support him." Afterwards he come over to my home. I made drives with him most every Saturday afternoon during the summer months, out to Reeds Lake mostly. I made a drive with him to a Red Cross picnic at Saranac, and we went around and mingled with the crowd, and wherever there was an opportunity, why I would distribute literature for Mr. Newberry, or something of the kind. If I happened to see a Spanish-American War button I would come in contact with him and talk with him. George Welsh was with me. I mentioned to George—I says, "Well"—over at the hall I says, "Well, some day perhaps you may take my name in consideration." "Well," he says, "I will consider it." I told this a couple of times before. I have testified before the grand jury and made a recent statement in which I said Mr. Welsh told me that if I would assist him

and Mr. Newberry in that campaign, that he would get me a position in the Legislature. That was read to me this morning. I asked Mr. Welsh, "Welsh, I want you to consider me." He said, "I will consider you." He asked me if I wanted a position down there at Lansing. I told him I would think it over. I took it after I thought it over. He got it for me. It was sergeant in the House. He also secured a position for my son as a page in the legislature. It is not a fact that Mr. Welsh and I talked over the matter of his procuring that position for me a number of times during the campaign, and that he asked me to help him and Mr. Newberry in return for which he would do this for me. I wasn't looking for it at all. He did not say that to me. I do not recollect telling the grand jury about that. I talked with Mr. Welsh last probably about 45 or 55 minutes before I took the witness stand. I have talked with him probably twice during the last week or 10 days. In a way Mr. Welsh turned over small sums of money to me during the campaign, but that he paid for the Party. One of the ways was, I was to entertain workers down at my home, by soft drinks, and at a meeting for Welsh and four or five different candidates. It was not a Newberry meeting, though Newberry was interested in it. I am not attempting to evade in any way. I would go out and buy soft drinks and bring them in there at this meeting, then Welsh would give me the money to pay for it. He took me out to banquets at some club here and had me get up and address meetings for Newberry. I do not know who paid for those banquets. I did not pay for any part of them. I had my father-in-law, John D. Soper, working for Mr. Newberry in the distribution of literature. I once got $5 from Welsh to compensate him for the work he did. Welsh gave me $3 for a party at the house, that is all I received of him.

WILLIAM JONES, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I am a commercial traveller. I lived in Grand Rapids and was living there at 940 Jefferson Avenue in July, 1918. There is no other Will Jones living at 940 Jefferson Avenue, and I know of no other Will Jones living at 940 Jefferson Avenue, or anywhere in the city. The name "William Jones, 940 Jefferson Avenue" at line 24, page 1, of the James W. Helme petition identified by the Secretary of State's Office, now shown me, is not my signature.

MR. LITTLETON: I move that the witness's answer be stricken from the record on the ground that these accused persons in this indictment cannot be held responsible for any act of any person who may have circulated this petition. It does not appear in the evidence who did circulate it, nor does it appear to be connected with any of the accused persons in this indictment, or the circulation of it, or that they are in any wise responsible for it.

THE COURT: The application will be denied.

MR. LITTLETON: Exception.

I did not authorize anyone to sign my name to that petition.

CROSS-EXAMINATION BY MR. LITTLETON:

I signed one petition in the Spring of 1918 for the nomination of a candidate for Senator. I think it was in August but I am not positive. This "Will Jones, 940 Jefferson Street" appears on the petition in lead pencil. That is not my number; mine is Jefferson Avenue. I do not know whether there is a 940 Jefferson Street or whether there is a Will Jones living at 940 Jefferson Street.

MYRON A. BARBER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I am engaged in the drug business. I live in Petoskey and was living there in the summer of 1918. In the Spring of that year I circulated one Newberry petition and caused others to be circulated, in the State, and also in Bear Creek Township and in Resort Township. I paid for having that done. These petitions were given me by the defendants Tufts and Wentz who called upon me in April, 1918. I afterwards saw Mr. Charles A. Floyd in connection with the Newberry Senatorial Campaign. I do not just remember the time. Later I received a check for $150 in connection with that campaign; I think it came from Grand Rapids—from Mr. Floyd. I paid out for circulating the petitions somewhere in the neighborhood of probably $30.00. I paid it out by the day. I also paid out money for distributing literature through the city, and also through the county, and for automobile hire, telephone, blank envelopes for enclosing the literature. I paid $3.00 or $3.50 for a notice of the film entitled "Our Navy" that was to be shown at the local picture house. I had received a letter from Detroit with reference to that film. This letter stated that there would be a film entitled "Our Navy"

which featured Truman H. Newberry, and it would be exhibited at one of our theatres on a certain date and wanted I should inform the people around there to that effect. I wrote the notice for the paper by request of the manager of the theatre. I had received $150 before I paid for this advertising. I had a conversation with Mr. Floyd regarding Mr. Darling. Mr. Floyd said he understood that Mr. Darling was to look after the north end of the county, that he was instructed to see a man by the name of Bachus over there. I do not recall that Mr. Floyd said that he would take care of Mr. Darling or that he would be taken care of. I could not be positive that he made such a statement to me at Petoskey. I remember a little conversation we had this morning. Possibly I informed you then that that was the substance of Mr. Floyd's statement with reference to Mr. Darling. If I made that statement, I will adhere to it. I guess perhaps I did make that statement to you and Mr. Dailey in the Marshall's office this morning.

GEORGE HOLLWAY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have resided in Grand Rapids about 35 years. I have been associated with the defendant, Mark McKee ever since 1914. Our acquaintance has been very intimate; I have been in his office in Detroit and he has been in mine in Grand Rapids frequently. In 1914 and 1916 he and I were identified with the Macabees, and we were associated in doing any work for them that arose out of the Michigan Fraternal Congress, of which the Macabees were a part. I conducted some litigation for them at one time. Mr. Ethan W. Thompson introduced McKee to me. Mr. Thompson lived in Grand Rapids at that time. He was then the District Manager for the Maccabees, and he worked with McKee in fraternal matters in 1914 and 1916. In May, 1918, I had a conversation in his office on Fort Street, Detroit. Mr. McKee and Paul H. King occupied adjoining suites of rooms. I called on Mr. McKee following a meeting of the Michigan Fraternal Congress or Insurance Federation, I cannot recall now which, and Mr. McKee brought up the matter of my trying to induce Mr. Thompson to join in a matter of an organization that they had charge of; as I recall his language it was that he wanted me to get Mr. Thompson into my office and see if I could not interest him in taking up the organization work, which he said he and Mr. King were in charge of, in the matter of that cam-

paign. He discussed a lot of matters, and his connection with Thompson, and urged me to try to get Mr. Thompson to give him a favorable answer. I think that was his exact language, that he and Mr. King had a matter of organization in which he (McKee) had tried to interest Thompson to take charge of on the western side of the State. What was said in that conversation about me telling Mr. Thompson about compensation was talked of in this way: That this matter was one in which they could make it worth while for Mr. Thompson to be interested; they had the means to make it worth while for him to do the work. Pursuant to the request that Mr. McKee had made me, on my return to Grand Rapids I either wrote or telephoned Mr. Thompson and he came into my office. Sometime later on the matter of Mr. Thompson refusing to accept the employment was discussed between Mr. McKee and myself; Mr. McKee regretted that Mr. Thompson did not see his way clear to take up the work for him in the Newberry campaign. Following this, I suggested Mr. Smallidge who was in similar work to what Mr. Thompson was doing, in fraternal organization. The paper now shown me is a letter press copy of a letter that I wrote to Mr. McKee in reference to what I have just testified to. The other papers are the letter of Mr. McKee which I received in answer to the letter I have just spoken of, and the envelope in which that answer came. At a later date I showed Mr. Smallidge the letter from Mr. McKee.

ETHAN W. THOMPSON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY.

I live at Port Huron, Michigan. I have resided in Michigan for thirty-four years. I am engaged in fraternal insurance work. While engaged in that line of work I have been associated some with the defendant Mr. Mark T. McKee. I have known him very intimately. I also know George Hollway of Grand Rapids very intimately. I lived in Grand Rapids for 18 years. In the spring of 1918 I was at Mr. Hollway's office and the conversation was of this nature, as near as I can recall: Mr. Hollway stated that Mr. McKee had conveyed to him the information that Mr. King desired me to work for him in the campaign in Western Michigan, and we talked along relative to the Senatorial situation, for that is the one that is in view, and I stated to Mr. Hollway that I was for Chase Osborn and that I had in the Upper Peninsula a great many intimate friends and

that in my early days and struggles they had been very us
to me, and inasmuch as I had been a Bull Mooser and in s
pathy with the principles of Governor Osborn, I certainly w
be in no position to support anybody else, and consequentl
would support Mr. Osborn, and that I would write Mr. McK
but I also coupled with that, that I appreciated this matter
being asked by Mr. McKee, or Mr. King through Mr. Mc
rather, in regards to this matter, and that I would write h
my position and the reasons why I would not be in a position
accept and render any services along that line. I did write
McKee within a day or two I presume—possibly the same d
I made no copy of the letter and consequently had no way
remembering the day. My employment during 1918 was
Manager of the Western District of Michigan for the Maccabe
Great Camp for Michigan, which included the entire West side
Michigan from Indiana to the Straits of Mackinac, thi
counties.

K. H. BEITLER, sworn on behalf of the Government, testifi
as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Jackson. I was located at Eaton Rapids, formerl
At present I am a student train dispatcher. When at Eat
Rapids I was telegraph operator for the Michigan Central Ra
road. I was stationed there in 1918. I know Dr. James
Bradley of Eaton Rapids. During the summer of 1918, I r
received and transmitted telegraphic messages for him, and
also transmitted messages that were filed in the office by him.

The papers now shown me, marked Governments' Exhibi
72 to 73-P inclusive, are copies of messages received at my offi
office at Eaton Rapids for Dr. Bradley, and messages filed in m
office by Dr. Bradley for transmission, during the months o
June, July, August and September, 1918. They were all that
found. I went through the entire file.

The papers referred to by the witness were read in evidence a
follows:

GOVERNMENT EXHIBIT No. 72

7 Dec 9 Detroit,Mich June 1 645 P
Dr James B.Bradley
Eaton Rapids,Michigan
Obliged to change plans Will be there Saturday of next week in
stead of Thursday Will this be all right

Paul H. King.

GOVERNMENT EXHIBIT No. 72A

9 Dec 11 Detroit Mich 405 P June 3
Dr. Chas. B. Bradley
Eaton Rapids

Letter Received Many thanks Will be there next Monday as suggested.

Paul H. King
415 P

GOVERNMENT EXHIBIT 72B

3 Dec 13 Bay City Mich 1202 P 7/26

Dr James B Bradley
E R

Just received your letter forwarded me at Alpena hearty congratulations Am mighty glad

Paul H King

GOVERNMENT EXHIBIT 72C

ER 8/5/18

Paul H King
310 Ford Bldg
Detroit Mich

Will you be at home tomorrow

J. B. Bradley

5 Det C Q 1134 am

GOVERNMENT EXHIBIT 72D

6 Det Detroit M 124P 8/5/18
Dr.James B.Bradley
ER

Yes until noon Glad to see you

Paul H King
208 P

GOVERNMENT EXHIBIT 72E

4 Dec 45
Detroit Mich 4P Aug 10,1918
Dr J B Bradley
Eaton Rapids Michigan

Please wire us Monday giving names of two very prominent farmers in your county who are recognized leaders in agriculture

who will authorize use of their names in newspapers endorsing candidacy of Commander Newberry You can state N P Hull, Landing heads the list

Paul H. King

GOVERNMENT EXHIBIT 72F

ER 8/12/18

Paul H King
310 Ford Bldg.,Detroit,Mich

Chas.H.Whittum Herbert J. Gilman recognized leaders in Agriculture in Eaton County You can use their names.
Dr J.B.Bradley

GOVERNMENT EXHIBIT 72G

4 Dec 21 Detroit Mich 553 P Aug 16
R. J.B.Bradley
Eaton Rapids Michigan

Please wire me names of two or three most representative business men in county who will authorize published endorsement of Newberry

Paul H King

GOVERNMENT EXHIBIT 72H

ER Aug. 19,1918

Paul H King
310 Ford Bldg Detroit Mich

You can use as leading business men Ex-representative Ernest G. Pray and Hayden P. Moyer I tried to get the other Charlotte paper today but he turned me cold.

J B Bradley

GOVERNMENT EXHIBIT 72J

14 collect

Paul H.King,
310 Ford Bldg.,Detroit,Mich.

Send Dior Benjamin package of Literature tomorrow morning care Board of Auditors Lansing

J B Bradley

GD DE 75 G P,CBB

GOVERNMENT EXHIBIT 72K

ER 8/21/18

Paul H King
310 Ford Bldg Detroit Mich
Send me six packages literature today sure want to use them tomorrow

J B Bradley.

GOVERNMENT EXHIBIT 72L

8 Dcl 13 Detroit Mich 11,55,8/14/18
Dr J B Bradley
ER

Patriotic film our navy featuring Commander Newberry will be shown tomorrow Bijou Theatre

Newberry Senatorial Committee
124P

GOVERNMENT EXHIBIT 72M

205 PM ck 15 No. 12
S New York N Y Aug 28/18

Dr J D Bradley
Eaton Rapids Mich

Please accept my sincere congratulations and heartfelt thanks and appreciation for all your hard work.

Truman H. Newberry

GOVERNMENT EXHIBIT 72N

10 Dec 13 Detroit Mich 555 P Sept 9
Dr J B Bradley
Eaton Rapids Michigan

Hope you can have strong resolutions endorsing Newberry passed at County Convention tomorrow

Paul H King

GOVERNMENT EXHIBIT 72-O

1 Dcl 10 Detroit Mich 1045A 9/11/18
J B Bradley
ER

Action of your Convention is fine thank you very much

Paul H King
1230 P

GOVERNMENT EXHIBIT 72 P

8 Dec 32 Blue
Detroit Michigan Sept 16 355 P
Dr J B Bradley
Eaton Rapids Mich
Commander Newberry wishes to write letter of appreciation to each of your committee men or to those who actively assisted you will you please send list of their names as soon as possible
Paul H King

R. C. ROTHFUSS, sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Adrian, Michigan. I am President of the bank. I have been connected with this bank nearly eleven years. During that time I have known the defendant James W. Helme. He is a director of the bank. I have seen him write and am acquainted with his handwriting. The handwriting of the body of the letters now shown me, marked Government's Exhibits Nos. 59,59a,59b,59c,59d and 59e, as well as the signatures, looks like the handwriting and signatures of James W. Helme, as I recall it.

The six papers referred to by the witness were offered and received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT No. 59

Michigan Dairy and
Food Department, Lansing G.Rapids,May 12.
My Dear Mickel, After consulting with some of my other friends I have concluded I will make no objection to going ahead with that matter. I am afraid however you will not have the necessary time. I leave in the morning for Nashville to speak out in the country and I will be at home Sunday
J.W. Helme.

GOVERNMENT EXHIBIT No. 59A

Michigan Dairy and Food Department, Lansing,Adrian, July 6,1918. My dear Mickel. Have just got back from Detroit. My friends are devoting their (Saturday) afternoons to looking up the situation in Detroit which is decidedly mixed. They will write or wire me Sunday what the situation is and I will let you know Monday or not later than Tuesday my final decision on the matter J.W.H.

GOVERNMENT EXHIBIT No. 59 B

Michigan Dairy and Food Department,Lansing,Adrian, July 10,1918, My dear Mickel. I have decided not to go into the primaries. Looks like an uphill job in which their is neither money nor glory. J.W.Helme.

GOVERNMENT EXHIBIT No. 59C

Michigan Dairy and Food Department,Lansing,Adrian, July 27, 1918, My dear Mr. Mickel. After thinking that matter over carefully I have decided not to go in I can see little or no chance for success either in the primary or at the polls. There seems to be nothing in it for me except some advertising, and the Lord knows I have had enough advertising to last a life time.At my time of life I must look after more substantial things than notoriety. I am so busy now I can hardly get time to sleep and I feel I ought not to take on anything new at present. Very truly yours, J.W.Helme.

GOVERNMENT EXHIBIT No. 59 D

Michigan Dairy and Food Department, Lansing,Adrian Aug 1 My dear Mickel. I think it would be better to have no names on our committee. Look at the Newberry advertisements and you will see how they manage it. It is sufficient to have your name as executive chairman or anything else you want it. Newberry Committee has no names except its chairman. Things looking good. J.W. Helme.

GOVERNMENT EXHIBIT No. 59E

Michigan Dairy and Food Department,Lansing,Adrian
My Dear Mickel. My stuff was in all associated press papers and Chicago Tribune in full. Now I want to get out another dose on the food question. Oscar says he saw in some Gd.Rapids paper last week a dispatch from some interior point in Michigan,he thinks it was Eaton Co., telling how the farmers were feeding milk to their hogs. Now it is important that I have that, and I wish you would look up the files of the Grand Rapids papers and locate this dispatch and send me a copy of the paper.Do this at once. It would be in one of the issue of the following dates,July 29,30,31,Aug.1 or 2nd.
J.W. Helme.

THE WITNESS (continuing): The name "J. W. Helme, Adrian" in the upper left hand corner of the envelope now shown me and the address on the envelope "W. J. Mickel, Grand Rap-

ids, Mich., Lock Box 334", looks like the handwriting of Mr. Helme, as I recall it.

The envelope identified by the witness was marked Government Exhibit No. 59-F, and received in evidence and read to the Jury as follows:

GOVERNMENT EXHIBIT No. 59-F

"Cancelled stamp in upper left hand corner, postmarked Adrian, Michigan, July 7, 10:30 A. 1918, In the upper left hand corner the name J. W. Helme, Adrian, Food and Drug Department scratched out. The address, W. J. Micked, Grand Rapids, Mich., Lock Box 334."

FRANK S. GOULD, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Grand Rapids and am Local Manager of Western Union Telegraph Company. I have occupied that position since October, 1911. My company have an office at Adrian, Michigan. The paper now shown me, marked Government Exhibit 73-B, was sent to me by the Adrian office in response to a telegram. It is an original message which was filed in that office to be transmitted over the wire to Hillsdale.

The papers referred to by the witness were received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT No. 73B

"WESTERN UNION TELEGRAM

July 9, 1918.

To Wm. Prideau, Alamo Engine Co., Hillsdale, Mich.
Will arrive today noon, N.Y.C. Paul King."

THE WITNESS (continuing): The papers now shown me, marked Government ExhibitsNos. 74 and 74-A, are original messages filed in the Grand Rapids office for transmission, and were transmitted from the Grand Rapids office to the office to which they were addressed. Government's Exhibit No. 74-B is a copy of a message received at the Grand Rapids office; 74-C is a water copy of a message; and Government's Exhibit No. 74-D is a message that was sent by the Grand Rapids office to the Detroit office for the purpose of being relayed to NEW YORK.

The papers referred to by the witness were admitted in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT No. 74

Western Union Telegram.

10/28, 1918.

Charles A. Floyd,
1224 Ford Building,
Detroit, Michigan.

Three thousand letters forwarded Saturday. Two Thousand today. Hold signature stamp until they arrive.

W. E. Rice.

GOVERNMENT EXHIBIT No. 74-A

Western Union Telegram.

10/25/18

Charles A. Floyd
1224 Ford Building,
Detroit, Michigan.

Chilson of State Central Committee Detroit has Kilstroms signature stamp envelopes to you today. Possibly circular letters not signed.

W. E. Rice.

GOVERNMENT EXHIBIT No. 74-B

Western Union Telegram. Escanaba, Mich.

Oct. 20, 1918.

Charles A. Floyd,
Grand Rapids, Michigan.

Marquette tomorrow Delta in good shape. Osborn vote going to us have you any suggestions in reference to Chippewa County

James F. McGregor

GOVERNMENT EXHIBIT No. 74-C

1918 Sep. 6 PM 5 51
Detroit, Michigan, 3:55 PM

Hon. Geo. W. Welsh,
Grand Rapids, Michigan.

Commander Newberry wishes to write letter of appreciation to each of your Committee men or to those who actively assisted you will you please send list of their names as soon as possible.

Paul H. King.

GOVERNMENT EXHIBIT No. 74-D

Western Union Telegram.

Grand Rapids, Mich.
Sep. 26, 18.

Hon. Truman H. Newberry,
Care Biltmore Hotel,
New York City.

Suggest telegram in following form period as my service in the Navy is concerned with the departure in constantly increasing numbers of our soldiers and sailors and munitions for the battle front I cannot be with you and I request that you express to the convention my deep sense of the responsibility and my appreciation of the honor of having received the Republican Nomination for the United States Senate period the Republican party founded and fostered by an intense spirit of Patriotism and loyal service will continue to support all efforts to bring quickly the day of a victorious peace period I have full confidence that the electors of Michigan will by their votes in November again express their approval of the principles of our party and will demonstrate their disapproval of pacificism and lack of preparedness period my very best wishes for a splendid meeting.

Paul H. King.

JOHN SMOLENSKY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I am a resident of Grand Rapids and have lived here for some years, all my life. I am a lawyer. I know Charles Floyd. In the primary campaign of 1918 he met me casually on the street and I asked him what he was doing, and he said not much, but that he was interested in some way with the candidacy of Truman Newberry for Senator, and asked me to express my views, whether I was for him or not, and I said I was, and he then asked me if I would not assist all I could to further that candidacy. There were some editorials in the Polish papers relative—or news items they might have been—relative to the candidacy of Truman H. Newberry, and I said that they would be good things to distribute among the Polish people. Reproductions from these editorials were printed in Grand Rapids and mailed out of my office to the Polish business men throughout the State. I had a state gazeteer or state directory, and I took out the names of business men that appeared like Polish names

and mailed them out. I expended $30 in connection with that, for which I was reimbursed by Mr. Floyd. I had previously told him what I had done and the cost. Further along in the campaign I received a written request from the Detroit headquarters to go to Gaylord, Michigan, to talk to a gathering of Polish people there. My father and mother were born in Poland. When I got back, I told Mr. Floyd I had been there and that my expense was $12.20 railroad fare, which he gave me. The audience which I addressed was composed mostly of people of Polish descent. It was scheduled for a Sunday, immediately to follow the service, on the Polish Church grounds. After I returned from Gaylord, I wrote to Detroit and gave my report of what I did at that meeting. The papers which I now produce are the letter I received in reply and the envelope it came in.

The papers referred to by the witness were marked Government's Exhibits No. 75 and 75-A, and were admitted and read in evidence as follows:

GOVERNMENT EXHIBIT No. 75

TRUMAN H. NEWBERRY

For Republican Nomination for United States Senator
310 Ford Building,
Detroit.

State Committee.
A. A. Templeton,
General Chairman.
Paul H. King,
Chairman, Executive Committee.

August 20, 1918.

Mr. John J. Smolenski,
305-6 Commercial Savings Bank Building,
Grand Rapids, Michigan.

My dear Mr. Smolenski:

I have your letter of yesterday regarding the meeting at Gaylord, and want to thank you personally and in behalf of Mr. King for your great kindness in taking this on for us. I realize that the meeting should have had more advertising, but there was considerable doubt up to within two or three days of the meeting whether or not we could get a satisfactory speaker and only your kindness in the matter settled that for us. A request was made for some bills from here printed in Polish, advertising the meeting but the request came so late that with the uncer-

tainty of mails and express it was impossible to get them out in time to do any good.

If you will mail me a statement for your expenses and services, I will be glad to forward you check to cover the amount.

Very respectfully,

E. V. Chilson.

GOVERNMENT EXHIBIT No. 75-A

"Cancelled stamp and "Detroit Aug. 20, 5:30 P. M. 1918 Mich. Senatorial Committee. Truman H. Newberry, 310 Ford Building, Detroit, Mich. Mr. John J. Smolenski, 305-6 Commercial Savings Bank Building, Grand Rapids, Michigan."

THE WITNESS (continuing): I received no money except the $42.40 that was given me by Mr. Floyd.

FRANK M. BOVEE, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is in Lansing, where I have lived altogether about 26 or 27 years. I am an optician. I know the defendant E. B. Chilson. Mr. Chilson came into the store and, as I remember, he says, "Doc, are you for Ford, or are you for Helme?" I says, "I am not for Ford, I am for any Democrat. I did not know Helme was running." "Yes," he says, "Helme is in the race and I have some blank petitions for him and would like to get at least four of them filled up." I says, "I have very little time to do that, but I might get some one to go out and do it." He says, "Well, you do that then." He reached down in his pocket, took out a medium sized roll of bills, and slipped me a $20 bill, and he says, "That will do to pay for the man you have to circulate them." I have seen the primary nominating petitions for James H. Helme, now shown me. My name is the first one signed on it. I think that it was all signed up in my store; I am not absolutely certain about that, I think it was; it laid on the show case. I got that petition from Mr. Chilson. I think he gave me four petitions when he gave me the $20 bill. I did not employ anybody else to carry petitions in Lansing. I asked several that had circulated petitions before that. I was interested in local matters, and they were too busy and could not do it. I am not absolutely certain whether I had any petition filled out in part in addition to this one, but I think I had one in my pocket with a few names on that was never turned in. The pe-

tition was left in the store and was called for during my absence, and I do not know who came in after it.

CROSS EXAMINATION BY MR. LITTLETON:

I do not think I saw Mr. Chilson again during the campaign after that day that he was in my store. When he gave me the $20 he said to me that I could use that for the purpose of paying the expenses of circulating the petition. I have no recollection of having seen him since then. I was a Democrat. I was for Mr. Helme in this campaign. That was my idea in circulating the petition; I wanted to get a Democrat on the ticket.

THOMAS J. HALLIGAN, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is in Flint, Michigan. I have been a resident of Flint 15 years, where I have a bowling and billiard academy, and a baseball team in Michigan of the Ontario League. I was engaged in those lines of business in 1918 in Flint. I know the defendant Hugh Maddigan, and have been acquainted with Fred Henry five years. In the spring of 1918 I received two visits from Mr. Henry. On the first occasion he came to see me at my home about ten thirty in the morning, and he wanted to know what lines to go about to run a campaign for senator. He wanted me to give him the information, and I told him that I could not give him the information for nothing; and we went on and talked a while and he asked me some good men to refer him to, and I told him that was kind of out of my line at that time; and he wanted to know if I would work for him, and I says, "Well, I do not know. I generally do not work for anybody but myself." "Well," he says, "I will give you $50 a week from now until the primary if you will go out and work for me in behalf of Mr. Newberry for senator." "Well," I says, "I cannot do much on $50 a week because I am no good to you for $50 a week, or no other man is, getting you votes. You have got to have money in this county. Mr. Newberry is a rich man and everybody expects he is going to spend some money." "Well," he says, "how much money have you got to have?" "Well," I says, "eight hundred to a thousand dollars will get you a lot of votes, but $50 a week I would not consider working for." So we talked along a little while longer about who he was going to go and see, and said he would see me later. That was the substance of the first conversation, as I now recall. Later on he

o'clock

called at my home, 12:30 to 1:00 in the evening. "Well," he says, "I came back to talk over politics with you again as I promised you I would," and I says, "Well, what have you decided on doing?" "Well," he says, "I have got things lined up pretty good and I am going to have a meeting over at my house on such and such a night"—I cannot recall the night—"And Mr. KING and Mr. Fletcher and a few more of the boys are going up there and we will have a little smoker and kind of get acquainted and get some idea of how we will go about the campaign in Genesee County." "Well," I says, "what have you done regarding my money?" "Well," he says, "I have not did anything yet, but I am going to have a talk with Fletcher and King"—and I do not just recall the other man he mentioned now, and he says, "I think we will take care of you all right. I want you to be at my meeting over at my house at seven o'clock," on such and such a night, I cannot recall the date, and I says, "All right." And I was at his house to the meeting. In this second conversation he still wanted me to work for $50 a week, and I still insisted I could not do him no good for $50 a week. I asked him just what duties he wanted me to perform if I got the money that I asked for. He says, "Well, I want you to take care of the townships. You know quite a lot of people in the townships, and you may do some good." "Well," I says, "do you realize it would cost you $800 to take care of the First Ward, not to go out in the townships at all?" And he says, "Well, go ahead and I will take care of you." And that is practically the way the matter stood when he left me. He gave me no money that night, nor at any other time. Seven or ten days before the primary election, I met him in front of the Electric Cigar Store at about 11:30 o'clock in the evening, coming out, and I was going by and I says, "Hello, Fred." He says, "Hello." I says, "How's the campaign coming?" He says, "Pretty good; looks like we are a sure winner." I says, "Everybody lined up all right." He says, "Yes." I says, "McKeighan lined up with you." "Yes, sir; he is all fixed, all set," he says. "Well," I says, "that's fine. Evidently you will carry that ward then." And he bid me "Good Night" and went on about his business. I never met Dick Fletcher until that evening of the Newberry meeting at Henry's house. Fletcher was at the meeting. I never knew Paul King until that evening. He was also in the meeting. The defendant Maddigan was there, and Fray Diem.

CROSS-EXAMINATION BY MR. LITTLETON:

I have been active in politics in Flint at different occasions.

I took an active part in 1918, on behalf of several candidates, for instance, Mr. Newberry and Dr. Hugh Stewart, who was running for Senator from our district. I was supporting Dr. Stewart. I would say that Mr. Henry first called on me about ten weeks before the 1918 primaries. That would bring us back in July. He asked me how to run a campaign. I did not tell him I would have to be paid for my advice on that subject, or in substance that I did not feel as though I could give him any information for nothing. By that I meant if I gave him any information as to how to run a campaign, I wanted to be paid for it. I had been in the habit of running campaigns in Flint. I was very active in running a campaign for McKeighan for Sheriff of Genesee County, and I handled a Wet campaign in Genesee County for Mr. Dwight Warner of Lansing. I was not McKeighan's campaign manager for sheriff. I was not his manager in any of his campaigns, but I was active in his campaign for sheriff. I was not chairman of any committees. I cannot recall whether, when I told Mr. Henry that I could not give him the information that he wished for nothing, that he offered to pay me for information; but he insisted that I work for him. I did give him a little information on that first conversation, but I did not charge him for it. I gave it to him as a friend. I was willing to give that much as a friend. The balance that I proposed to give him would have to be paid for, unless I changed my mind. I held the balance in reserve. I knew the politics of Flint pretty well; I knew the town pretty well. I had never campaigned outside of Genesee County. When I told Mr. Henry in our first conversation that it would take $800 or $1,000 to carry the First Ward, I was not proposing to buy the votes. I never bought a vote in my life; I do not do them things. I proposed to give this $800 or $1,000 to somebody else. I do not know what they would do with it. I do not hand the money to them, if I happen to have it, with the intention that they should buy votes. It is not necessary to tell a politician what he is to do with money. I did not care what the people I proposed to hand this money to did with it. It did not make any difference to me whether they corrupted the voters or not, even though I handed the money to them. It was immaterial to me. I never give out money to be used for the purpose of buying votes. I proposed to keep part of the $800 or $1,000 that I tried to get Henry to furnish. I proposed to tell him I was going to keep it. I supposed I would keep about $400 for myself, and the other I would pass along. I did not care what they used the other $400 for. They might buy a few cigars. I

never asked them to buy votes. I think that is illegal, but I would not care whether they used it for that purpose or not. I should say Mr. Henry's second visit was between three and four weeks prior to the primaries. I do not believe I then asked him anything with reference to my money. He brought the subject up himself. I do not believe I asked him what he had done regarding my money. I believe I asked him what he had done with the plans he had laid. He did not say, "I think we will take care of you." That I deny. There was no "think" about it. It was a direct promise on that occasion.

FRAY DIEM, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is in Flint, where I have lived about 15 years. I am with the Buick Motor Co. and was with them in 1918, as general foreman of plant No. 38. I first met the defendant, Fred Henry, at his home in the summer of 1918, during the Senatorial Primary Campaign. I was invited there by Hugh Maddigan. The parties who were present at the meeting that night that I knew, as far as I can now recall, were Mr. Maddigan, Mr. Youngs,, Mr. Halligan, Mr. Botsford and Mr. Stoddard. I was informed there were strangers present who came from out of the city, but I did not meet them. There was some talk between Henry and me that night, and he delivered some literature to me. He asked me if I would pass it out. They were small booklets with the military life of Truman H. Newberry. I saw Henry once after that in the Electric Cigar Store. We met in the card room there. I think he and I were alone at that time. He gave me some Newberry campaign buttons that night. They were in a paste-board box probably three or four inches square and about six inches deep. The box had been broken open and the lid was flopped together. It was about one-third full of Newberry buttons, and besides the buttons there was a $20 bill, which he said would buy gasoline.

CROSS-EXAMINATION BY MR. LITTLETON:

I took the literature which Mr. Henry gave me at his home to No. 38 plant and distributed it there amongst the men. About 335 men are employed in that plant. I distributed these booklets and cards in the dining room in the noon hour. I said I would distribute the buttons which Mr. Henry gave me at the Electric Cigar store, and I did so. I did not tell him where I was going to distribute the buttons.

KENNETH EARL THRACKMORTON, being sworn as a witness on behalf of the Government, testifies as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at 35 Straight Street, S. W., Grand Rapids, Michigan. I have lived in Michigan since 1915. I am fireman on the Pere Marquette and salesman of the National Finance Corporation.

During the spring and summer of 1918, I was located temporarily at the United States Naval Training Station, Great Lakes, Ill. I think I went there in May, and remained there through August, 1918. I knew the defendant, William E. Rice, in 1918. I met him for the first time July 3rd at the Naval Training Station, Great Lakes, Ill. I saw him once after that. I had had some communication from him in the form of a letter, to meet him at the Briggs Hotel in Chicago, Ill. There was a date fixed, but I do not recall it. I went to see him at the Briggs Hotel in Chicago. I cannot recall what month it was; in August I think. Russell Sabiston went with me. His parents and his home are in Henderson, Kentucky. He was a Radio Gunner in the Naval Service. I had a little talk with Mr. Rice that night; nothing of very great importance that I remember, only that pertaining to circulating some James W. Helme petitions. He gave a bunch of petitions to each one of the bunch that was there and requested us to get signers for them at the Great Lakes Naval Training Station, to circulate them; he didn't exactly state to get signers for them. He said they were James W. Helme petitions. He gave me some blanks and he gave the other young men, of whom there were three or four, blanks. I took the blanks with me. I saw him the next day in the afternoon near the docks. I talked with him very little at the dock. Something was said to me about my expenses into the city and back. He asked me how much the ticket cost me from the Great Lakes down and back, and I told him. He gave me either a $1 bill or a $2 bill, I don't remember which it was.

There was a paper called the Great Lakes Bulletin published among the sailors at the Great Lakes Training School, devoted to the interests of the boys in camp. I caused the "Personal" in the copy, now shown me, of the Great Lakes Bulletin—for Tuesday, July 23rd, 1918, on page 4, column 3, to be inserted.

MR. DAILEY here read the "PERSONAL" referred to by the witness,in evidence, as follows:

"PERSONAL—Will all Michigan men please communicate with K. E. Throckmorton, Company A. Fifteenth Regiment,

New Aviation, not later than Wednesday noon, July 24. News of interest."

Mr. Rice and I met in the Briggs Hotel at Chicago prior to this time. If I remember right, I got as many signers to the Helme petitions that the defendant, Rice, delivered to me, as I could and the rest of them got as many signers as possible; and the petitions were returned. Men came to the place that I had requested them to in answer to this "Personal." I took the petitions out among the boys of our own company only for their signatures. I do not know of the other boys doing the same thing, but after petitions were signed other fellows brought them to me to be sent in to Grand Rapids. I placed the heading on each of these seven Helme petitions, Nos. 1, 2, 3, 4, 5, 6, and 7 now shown me. I got those petition blanks from Mr. W. E. Rice. The heading is in my own handwriting partially. This other primary nomination petition of James W. Helme now shown me, seems to me like a petition of that kind which came from the Naval Station, but I would not be sure. I did not handle that petition. I might have sent it in, but I did not handle it. I am not positive whether or not I did send it in. I mailed these 7 petitions that I have identified to Grand Rapids. I do not remember to whom I mailed them. It was some address on Lyon Street. I do not know who occupied the place where I sent them, but I sent the petitions wherever Mr. Rice requested me to. I do not remember whether or not that was his printing office. I do not think these were the only petitions I sent to Mr. Rice, but I do not remember how many in addition to these 7 I sent him. I have some applications that were used for the Bolo Club in my pocket.

One of the papers referred to by the witness was here read in evidence, as follows:

APPLICATION FOR MEMBERSHIP BOLO CLUB OF MICHIGAN.

Pueblo of Grand Rapids, Michigan, 191—

Name in full mail address Age

Serve in———— Co.———— Regt———— or————

General Political Affiliation.

Do you understand it is of the utmost importance that you vote at the primaries?

Vote where. Precinct. Ward. Township

Will you serve as a worker in your precinct or township if needed? Signature.

Fill out in duplicate and mail to William J. Mickel,

Secretary, 77½ Monroe Avenue, Grand Rapids, Michigan.

V. A. POOLE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Harbor Springs, Michigan. I am station agent for the G. R. & I. and manager of the Western Union Telegraph. I was located at Harbor Springs in 1918 in the same capacity. The messages now handed me and marked Gov. Exs. 86, 86a and 86b were taken from the files of our office at Harbor Springs. Government Exhibit 86 is the original of a message which was filed in our office by Mr. Darling for transmission and went out.

The messages referred to by the witness were received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 86

Western Union Telegram

To Paul H. King Aug. 19, 1918.
Ford Building, Detroit, Mich.

Would like film "Our Navy" to be run in Harbor Springs. This is agreeable with our theater management. Wire me if we can have it so I can work up a crowd.

W. S. Darling.

THE WITNESS(Continuing): Government Exhibits 86-a and 86-b are copies of messages that were received at our office and delivered to W. S. Darling.

The messages referred to by the witness were received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 86a

Detroit Mich 1033 am Aug.20

W. S. Darling
Harbor Springs Mich

Our navy film will be sent special delivery to Lyric theater Harbor Springs for Monday August twenty-sixth.

Newberry Senatorial Committee

GOVERNMENT EXHIBIT NO. 86b.

New York NY 1102 am Aug. 28 1918

W. S. Darling
Harbor Springs Mich

Heartfelt congratulations and thanks on the splendid results of your earnest efforts.

Truman H. Newberry

FRANK S. GOULD, being recalled, on behalf of the Government, testified as follows:

BY. MR. EICHHORN:

The package of messages now handed me are messages taken from the files of the Western Union Telegraph Company's office at Menominee, Michigan. The whole file comprises messages filed in that office for transmission and copies of messages received at the office for delivery.

The papers referred to by the witness were marked Government Exhibits Nos. 87 to 87bb inclusive and were admitted in evidence and read to the jury as follows:

GOV. EX. 87

(Western Union Telegram)

Jan. 11, 1918.
Menominee, Mich.

New York Jan. 11,
Roger Andrews,
Menominee, Mich.

Can you possibly arrange to meet me in Detroit any time week of January 21st instead of the Chicago appointment period all the clippings and information you want is at parties Detroit office period Talked with Burt last night period he will be out January fifteen and thinks we should all meet in Detroit period The Detroit people will be here Saturday and Sunday and we can bring them in Detroit conference period. You could probably meet Clark at that time period Teddy received two very appealing letters this week period one from a distinguished Northern Peninsula man period one from your Honorable Senator period. Both hailing him as the great Saviour period. Nothing doing however period treat this information very confidential period.

Fred Cody.

GOV. EX. 87-B

(Western Union Telegram)

Menominee, Mich., Feb. 19, 1918.

Frederick Cody,
149 Broadway,
New York City.

O'Hara has case at Saginaw February twenty seventh

and eighth period Can we make Chicago date twenty sixth or March first period. Please wire.

Roger M. Andrews.

GOV. EX. 87-C

(Western Union Telegram)

Detroit, Mich. Feb. 19,
3-09P

Roger M. Andrews,
Menominee, Michigan.
Better plan on being in Chicago March first if necessary to change this date will wire you.

A. A. Templeton.

GOV. EX. 87-D

(Western Union Telegram)

Feb. 21, 1918.

A. A. Templeton,
841 West Jefferson Avenue,
Detroit, Michigan.
Confused by telegram from Cody naming February twenty sixth instead of March 1, as Chicago date agreeable to both of you period. Please wire.

Roger M. Andrews.

GOV. EX. 87-E

(Western Union Telegram)

Detroit, Mich. 852 AM
Feb. 22

Roger M. Andrews,
Menominee, Mich.
February twenty sixth for Chicago Meeting agreeable to me.

A. A. Templeton.

GOV. EX. 87-F

(Western Union Telegram)

Detroit, Mich. 920A Feb. 24

Roger Andrews,
Menominee, Mich.
Templeton and myself will meet you Hotel Blackstone Tuesday February twenty sixth one o'clock for luncheon.

Frederick Cody.

GOV. EX. 87-G.

(Western Union Telegram)

Detroit, Mich. April 13, 2PM 5th

Roger M. Andrews,
Menominee, Mich.

On return from trip out in the state find your telegram delighted with good news everything going well in Southern Michigan period. Would like to talk to you on phone period. Will you call me.

Paul H. King.

April 5, 1918.

GOV. EX. 87-H

(Western Union Telegram)

April 11, 1918, Menominee, Mich.

Paul H. King,
310 Ford Building,
Detroit, Mich.

Wire today where wire will reach you during Friday for details Chicago appointment.

Roger M. Andrews.

GOV. EX. 87-I

(Western Union Telegram)

Detroit, Mich. 10:24 A Apr. 11

Roger M. Andrews,
Menominee, Mich.

Wire me at headquarters Detroit Friday regarding Chicago appointment.

Paul H. King.

GOV. EX. 87-J

(Western Union Telegram)

Menominee, Mich. Apr. 12, 1918

Paul H. King,
310 Ford Bldg.
Detroit, Mich.

Tomorrow noon Hotel LaSalle period Will wire you there exact hour arrival Confirm.

Roger M. Andrews.

GOV. EX. 87-K

(Western Union Telegram)

Detroit, Mich. 8:33 P
Apr. 12

Roger M. Andrews,
Menominee, Mich.
Will meet you Hotel LaSalle tomorrow Saturday noon as per wire.

Paul H. King.

GOV. EX. 87-L

(Western Union Telegram)

Apr. 24, 1918 Menominee, Mich.

Paul H King,
310 Ford Bldg.
Detroit, Mich.
Wire immediately day you will reach Menominee so can arrange

Roger M. Andrews.

GOV. EX. 87-M

(Western Union Telegram)

Detroit, Mich. Apr. 24, 1918.

Roger M. Andrews,
Menominee, Mich.
Have not yet decided on schedule will wire you as soon as ready period have not located article period Think you had better go ahead with story as you have it period Can use other one separately.

Paul H. King.

GOV. EX. 87-N

(Western Union Telegram)

Menominee, Mich. May 13, 1918.

B. F. Emery,
310 Ford Bldg.
Detroit, Mich.
Send Schoolcraft petitions to Benjamin Gero, Manistique. Delta to Hon. Judd Yelland, Escanaba., Leave tonight, home Tuesday night.

Paul H. King.

GOV. EX. 87.0

(Western Union Telegram)

Menominee, Mich. May 13, 1918.

Mr. Carl Mosier,
Dowagiac, Mich.
Will be on Wolverine Chicago to Detroit tomorrow. Would be glad if you and Bruce could ride to Kalamazoo with me and go over matters.

Paul H. King.

GOV. EX. 87-P

(Western Union Telegram)

Menominee, Mich. May 13, 1918.

Hon. Truman H. Newberry,
280 Broadway,
New York City.
Am doubtful of use of matter through News service. Michigan papers already over loaded. Have only asked them for insertions five or six free articles. Unless lectures already started would suggest they not be sent out. Am anxious about film stuff and storage to be used by National weeklies. Has anything been done about them. Am writing.

Paul H. King.

GOV. EX. 87-Q

(Western Union Telegram)

Detroit, Mich. May 9:14P 14th.

Roger M. Andrews,
Menominee, Mich.
Wire received. Moore, recalled as requested. Please advise situation.

Paul H. King.

GOV. EX. 87-R

(Western Union Telegram)

Detroit, Mich. 11:56 A May 23

Roger M. Andrews,
Menominee, Mich.
Templeton photograph mailed yesterday should reach you today.

H. A. Hopkins.

GOV. EX. 87-S

(Western Union Telegram)

May 23, 1918 Menominee, Mich.

H. A. Hopkins,
310 Ford Bldg.
Detroit, Mich.
Templeton photograph not received. Rush today without fail. Holding magazine.

Roger M. Andrews.

GOV. EX. 87-T

(Western Union Telegram)

Detroit, Mich. may 12:29P, 25th

Col. Roger M. Andrews,
Menominee, Mich.
Have just received following telegram "Plates for Newberry booklet bearing Union label this office taken today by P. C. Monroe Menominee Herald Leader and Presumption is Plates are going to be used in non union office at Menominee in violation typographical union rules if plates used that office union here will flood district with Anti Newberry literature. Better stop it. Signed John P. Norton, Escanaba, Morning Press." Please wire immediately. This would of course be serious.

Paul H. King.

GOV. EX. 87-U

(Western Union Telegram)

Menominee, Mich.

Detroit, Mich. May 1044 PM 26th

Col. Roger M. Andrews,
Menominee, Mich.
Have not received any word from Norton.

Paul H. King.

GOV. EX. 87-V

(Western Union Telegram)

Menominee, Mich. July 6, 1918.

Charles A. Floyd,
Commercial Savings Bank Bldg., (or Res.)
Grand Rapids, Mich.
Keenly disappointed but will be at Grand Hotel Wednesday morning.

Roger M. Andrews.

Pd. & Chge.

GOV. EX. 87-W

44Ch RF 11 Detroit, Mich.

Menominee, Mich. Sept. 6, 1918

Paul H. King, 310 Ford Bldg. Detroit, Mich.

July 322PM 26th.

Menominee, Mich.

Roger M. Andrews,
Menominee, Michigan.
Have wired New York concerning your film will advise when I hear.

Thomas P. Phillips
417P

GOV. EX. 87-X

22CH M 18 Tex. Menominee, Mich.

Roger M. Andrews,

New York NY 1136A

Menominee, Mich.
Your copy of film will be shipped Tuesday by American Express Get after it at your end.

Thomas P. Phillips Biltmore

1217P
Jul 22, 1918.

GOV. EX. 87-Y

(Western Union Telegram)

Delay due to hospital session just over period Menominee expense extra newspaper advertising August forty nine sixty. Lists of voters addresses ten. Distributing printed supplies buttons and making canvass eighty five. Printing instruction ballots twenty five forty. Letters to voters and postage eighty six twelve period total two hundred fifty six dollars twelve cents.

Roger Andrews

Rush fast day message, paid and charge.

GOV. EX. 87-Z

Detroit, Mich. Sept 9, 1918.
431 PM

Roger M. Andrews,
Menominee, Mich.
Hope you can have strong resolutions endorsing Newberry passed at county convention tomorrow.

Paul H. King.

GOV. EX. 87-AA

(Western Union Telegram)

Detroit, Mich. Sep. 22, 18 11:02A

Hon. Roger M. Andrews,
Menominee, Mich.
Your letter seventeenth expect Paul will return by Monday

Chas. A. Floyd

505 PM

GOV. EX. 87BB

(Western Union Telegram)

Detroit, Mich/Oct. 9-31 AM 10

Roger M. Andrews,
Menominee, Michigan.
I will be in Detroit next week as planned so far as I know. Mangum will be.

Chil.

11:03P

THE WITNESS (continuing): The telegrams now shown me were taken from the files of my Company's office at Romeo, Michigan. They are the copies sent me by that manager.

The papers referred to by the witness were marked Government Exhibits Nos. 88 and 88-A, 88-B, and 88-C, and were admitted in evidence and read to the jury as follows:

GOV. EX. 88.

"Received at Romeo 1:20P. May 15, 1918.
Detroit, Mich. 12:12 PM 15.
W. T. Hosner,
Romeo, M.
Call me Thursday six thirty. Did not understand all your message.

King."

GOV. EX. 88-A.

Detroit, Mich. 1039 AM July 27, 1918.
W. T. Hosner,
Romeo, M.
Special Dely letter mailed today. Am arranging for dinner and conference, Macomb County Committee, Mt. Clemens Tuesday noon, July 30. Call Mr. John on phone; Advise

B. F. Emery."

GOV. EX. 88-B

"Detroit, Mich. Aug. 18.
W. T. Hosner,
Romeo, Mich.
Approaching last week with confidence. Splendid reports from every part of state. Only danger may be over confidence. Let us not fail for this reason, but go after every vote. Opposition may resort to eleventh hour tactics but know you will not be disturbed. Agricultural advertisement sent to all papers except Democratic. If you wish to add additional names local farmers. Have editors saw off end of plate and add as many names as you wish. Kindest personal regards.

Paul H. King."

THE WITNESS (continuing): The messages and copies of messages now shown me, marked Government Exhibits 89 to 89-D, are taken from the files of my company's office at Iron Mountain, Michigan.

The papers referred to by the witness were admitted in evidence and read to the jury as follows:

GOV. EX. 88-C

Romeo, Mich/ Aug. 29, 1918
New York 1:51 PM 28.
Wm. T. Hosner,
Romeo, Mich.
Please accept my sincere congratulations and heartfelt thanks and appreciation for all your hard work and that of all or our friends in your city.

Truman H. Newberry."

THE WITNESS (continuing): The messages and copies of messages now shown me marked Government Exhibits 89 to 89-D are taken from the files of my company's office at Iron Mountain, Michigan.

The papers referred to by the witness were admitted in evidence and read to the jury as follows:

GOV. EX. 89

Detroit, Mich. Sept. 9, 1918.

S. J. McGregor,
Iron Mountain, Mich.
Hope you can have strong resolutions endorsing Newberry passed at County Convention tomorrow.

Paul H. King

GOV. EX. 89-A

Iron Mountain, Mich. Oct/14, 1918.

To: Charles A. Floyd,
310 Ford Building,
Detroit, Mich.

Baraga Gogebic Iron and Dickenson Counties in good shape, everybody enthused. Attack on the Commander making votes. Leave Wednesday for Escanaba. Yelland wants me to do some work. Letter tomorrow. Wire me here.

James F. McGregor.

GOV. EX. 89-B

Iron Mountain, Mich., Oct. 15, 1918.

To Paul H. King,
c/o Biltmore Hotel,
New York, N. Y.

Had a charming visit today with O. C. Davidson, Oliver Mining Co. He wished me to convey to Commander his entire support and will so instruct his interests. Gogebic, Iron, Dickenson fine. Escanaba, Delta Hotel tomorrow until Sunday.

James F. McGregor."

GOV. EX. 89-C

Received at Iron Mountain, Mich.
Ironwood, Mich. 12:25 P 7-13-18.
S. J. McGregor,
Ironmountain, Mich.
Will arrive tonight, will stay over Sunday.

James F. McGregor.

GOV. EX. 89-D

Iron Mountain, Mich. July 16, 1918.
To James Haskins,
Street and No. 503 Coml. Sv. Bank,
Grand Rapids, Mich.

Please write today with latest dope Hotel Marquette, arrive there Wednesday night or Thursday. Received letter from you about Cadillac but none since. Will see Fisher at Houghton tonight. If mail sent anywhere else please wire to forward Marquette. Everything looks good up here.

Chas.

THE WITNESS (continuing): The messages and copies of messages now shown me were taken from the files of our office at Caro, Michigan.

The papers referred to by the witness were marked Government Exhibits 90 to 90-L, inclusive, admitted in evidence, and read to the jury as follows:

GOV. EX. 90

Lansing, Mich. 5:25 AM May 27.

H. S. Myers,
Caro, Mich.
Will be in Caro today 1:40 Michigan Central.
Terry Corliss.

GOV. EX. 90-A

Detroit, Mich. 6:57 PM July 30

H. S. Myers,
Change in plans call King at Port Huron care Burt Cady tonight or Neil Walsh Owosso Wednesday noon.
B. F. Emery.

GOV. EX. 90-B

Detroit, Mich. 10:37 A. July 27

H. S. Myers,
Caro, Mich.
Special delivery letter goes out today arrange meeting Caro Thursday night. Vassar Friday noon, advise.
B. F. Emery

GOV. EX. 90-C.

Detroit, Mich. via Lapeer, Mich.
10:21 Aug. 1

Paul S. King
c/o Hotel Montigue, .
Important letter Commander, advise where I can see you tonight.
B. F. Emery.

GOV. EX. 90-D

Aug. 2.

To:
Hon. Truman H. Newberry,
280 Broadway,
New York.
Letter and proof received. This will be big help. Have visited St. Clair, Macomb, Shiawassee, Lapeer and Tuscola this week. They look fine. Oakland tomorrow. Wayne Campaign going satisfactorily.
Paul.

GOV. EX. 90-E

Detroit, Mich. 11:10 AM Aug 5

H. S. Myers,
Please wire me initals Dr. Race. Thank you.
Paul H. King.

GOV. EX. 90-F

Caro, Mich. Aug. 5, 1918.

To:
Paul H. King,
310 Ford Bldg,
Detroit, Mich.

Charles N. Race.
H. S. Meyers.

GOV. EX. 90-G

Detroit, Mich. 4:00 PM Aug. 10.

Henry S. Myers,
Please wire us Monday morning names of 2 very prominent farmers in your county who are recognized leaders in agriculture who will authorize use of their names in newspapers endorsing candidacy of Commander Newberry. You can state N. P. Hull, Lansing heads the list.
Paul H. King.

GOV. EX. 90-H

Detroit, Mich. 4:53 PM Aug/16.

Harry S. Meyers,
Please wire me names of two or three most representative business men in county who will authorize publish endorsement of Newberry.
Paul H. King.

GOV. EX. 90-I.

Aug. 17, 1918.

Paul H. King,
310 Ford Bldg,
Detroit, Mich.
E. O. Spaulding & Son, General Merchandise and Groceries, Caro, Mich. J. F. Cartwright & Sons, General Merchandise and Groceries, Mayville, Mich. J. H. Kemp and Co. General Merchandise & Groceries, Unionville, Mich.
H. S. Myers.

GOV. EX. 90-J

New York, NY 1:51 PM. Aug/28

Henry S. Meyers,
Caro, Mich.

Please accept my sincere congratulation and heartfelt thanks and appreciation for all your hard work and that of all our friends in your city.

TRUMAN S. NEWBERRY.

GOV. EX. 90-K

Bad Axe, Mich. 9:05 AM
Aug. 30,

H. S. Myers,
Caro, Mich.

I will be at your garage at about 4 o'clock for a few minutes.

B. F. Emery.

GOV. EX. 90-L.

Detroit, Mich. 4:31PM Sept. 9

Henry S. Myers,
Caro, Mich.

Hope you can have strong resolutions endorsing Newberry passed at County Convention tomorrow.

Paul H. King.

THE WITNESS (continuing): The two additional copies of messages now shown me, marked Government Exhibits 91 and 91-A are from the files of the Company's office at Adrian.

The papers referred to by the witness were admitted in evidence and read to the jury as follows:

GOV. EX. 91

Saginaw, Mich. 12:38 PM
Aug. 10, 1918.

Glenn L. Williams,
Adrian, Mich.

Form of circular forwarded me here period it is certainly fine. Think personal signature would give weight period go ahead.

Paul H. King.

GOV. EX. 91-A

New York, NY 3:30PM Aug. 28

Glenn L. Williams,
Adrian, Mich.
Heartfelt congratulations and thanks on the splendid results of your earnest efforts and the efforts of all our good friends in your city.

Truman H. Newberry.

THE WITNESS (continuing): The papers marked Government Exhibits 92 and 92-A now shown me are copies of messages received at the company's office at Coldwater, Michigan.

The papers referred to by the witness were admitted in evidence and read to the jury as follows:

GOV. EX. 92

Detroit, Mich. 11:55AM Apr.10,18

Jas. C. Davis,
c/o Leading Hotel Coldwater, Mich.
When in Monroe be sure to call on Harry A. Conant.

Paul H. King.

GOV. EX. 92-A

Detroit, Mich. 4:16PM Apr.10,18

James R. Davis,
c/o Leading Hotel,
Coldwater, Mich.
Please omit Lenawee from your schedule. Have made arrangements.

Paul H. King.

THE WITNESS (continuing): The papers now shown me, marked Government Exhibits 93 to 93H are messages filed in the Howard City office of my company for transmission and copies of messages received at the Howard City office of my company for delivery.

The papers referred to by the witness were admitted in evidence and read to the jury as follows:

GOV. EX 93.

(Western Union Telegram)

Howard City, Mar. 19, 1918.

H. A. Hopkins,
310 Ford Bldg,
Detroit, Mich.
Will be at Downey Saturday morning. I still love you.

Haskins.

GOV. EX. 93-A

Detroit 2:36 PM 29

James B. Haskins,
Howard City, Mich.

Arrive here Monday afternoon train and receive hearty welcome.

H. A. Hopkins.

GOV. EX. 93-B

Detroit, Mich. 2:50 PM 13

James B. Haskins,
Howard City, Mich.

Hail reports and stay home good luck to you.

Hop.

GOV. EX. 93-C

Apr. 14, 1918.

Paul H. King,
310 Ford Bldg.
Detroit, Mich.

Mecosta County situation looks fine. Dresser will make survey and turn in names of his committee as soon as loan drive is over. Letter follows.

J. B. Haskins.

GOV. EX. 93-D

(Western Union Telegram)

Detroit, Mich. 3:16PM 16

James B. Haskins,
Howard City, Mich.

Stay until Sunday night.

Hop.

GOV. EX. 93-E

May 12, 1918.

H. A. Hopkins,
c/o Detroit Sleeper, Mich. Central train 106, Grand Rapids.

Affairs mixed here. Cannot come until Monday night. Sorry.

Haskins.

GOV. EX. 93-F

Detroit, 12:30 PM 13

To:
James Haskins,
Howard City.

Our navy available for Ramona twenty first and thereafter.

Thomas P. Phillips.

GOV. EX. 93-G

Detroit, 11:20 PM 6th

James B. Haskins,
Howard City, Mich.

Take first train for Detroit.

Chilson.

GOV. EX. 93-H.

Howard City, Mich. Oct/21,18

Republican State Central Committee,
310 Ford Bldg, Detroit.

Ask Chilson if anyone has gone into Gratiot. Wire me tonight, care Mertens Hotel, Grand Rapids.

Haskins.

The authenticity of the following telegrams, marked Government's Exhibit Nos. 94 to 94DD being admitted, the same were received in evidence and read to the jury as follows:

GOV. EX. 94

(Western Union Telegram)

Detroit, Mich. June24,1918.

Hon. Myron J. Sherwood,
Marquette, Mich.

Annual meeting Michigan State Bar Association Kalamazoo Thursday Friday this week think it excellent idea have Newberry's name unobstrusively kept before members in index to strength of our organization if you could go you could do much along this line. Please say if you can honorable Chas. Farrell Chairman there.

Paul H. King. 8:52A June 25

GOV. EX. 94-A

(Western Union Telegram)

Detroit, Mich. 10A June 26,18.

James F. McGregor.
c/o Marquette, Michigan., Marquette Hotel.

Paul wants to see you here Sunday suggest if convenient stop over one train St. Ignace see Robert Benjamin.

B. F. Emery. 11:35AM

GOV. EX. 94-B

(Western Union Telegram)

Marquette, June 28,18.

Paul H. King,
310 Ford Bldg,
Detroit, Mich.

Home Sunday morning.

James F. McGregor.

GOV. EX. 94-C

(Western Union Telegram)

Marquette July20,18.

Paul H. King,
310 Ford Bldg,
Detroit, Mich.

This county will have complete Committee as the rest.

James F. McGregor.

GOV. EX. 94-D

(Western Union Telegram)

Detroit,Mich.July20,18.

James McGregor,
c/o Hotel Marquette,
Marquette, Mich.

Telegram received congratulations Judd Yelland anxious to hear from you please communicate with him.

Paul H. King.
July 21, 7:39 AM

GOV. EX. 94-E

(Western Union Telegram)

Detroit, Mich. 3:42P July 21,1918.

James F. McGregor,
Marquette, Mich.

Gogebic List not received Detroit send duplicate.

Chas.
7:43

GOV. EX. 94-F

(Western Union Telegram)

Marquette, July 21,1918.

Paul H. King,
310 Ford Bldg,
Detroit, Mich.

Will get in touch with Yelland at Escanaba Floyd went home last night. Am compelled to stay here until Tuesday morning then go to Munising Alger County unless I have to go Escanaba. Send cards Buttons at once to Myron T. Sherwood, here.

James F. McGregor.

GOV. EX. 94-G

(Western Union Telegram)

Marquette July 22, 1918.

Paul H. King,
310 Ford Bldg.
Detroit, Mich.

Marquette committee complete William Trevilcock Ishpeming in charge assisted by Myron T. Sherwood Marquette, Dr. N. J. Robbins Mayor of Negaunee Send the above Buttons cards at once Munising tomorrow. Talked with Yelland all satisfactory. Sherwood will send list of Committee in few days.

James F. McGregor.

GOV. EX. 94-H

(Western Union Telegram)

Marquette, July 22, 1918.

Chas. A. Floyd,
Grand Rapids, Mich.

Marquette Committee complete William Trevilcock in charge as agreed assisted by Myron T. Sherwood Dr. N. J. Robbins, Mayor of Negaunee visited with Duncan this morning and all are pleased with the outlook. Munising tomorrow.

James F. McGregor

GOV. EX. 94-I

(Western Union Telegram)

Marquette, July 22, 1918.

Paul H. King,
Cushman Hotel,
Petoskey, Mich.

Committee completed Sherwood,Trebelcock,DuncanRobbins, Mayor Negaunee Munising tomorrow.

James F. McGregor.

GOV. EX. 94-J

Detroit, Mich. Aug. 10,

M. J. Sherwood,
Marquette, Mich.

Please endeavor to secure authorization from Vanderboom for use of his name to list of two hundred prominent agriculturalists in state endorsing candidacy of Commander Newberry wire answer Monday morning.

E. V. Chilson, 6:25 PM

GOV. EX. 94-K

Saginaw, Mich. 12:35 PM Aug.10,18.

Myron E. Sherwood,
Marquette, Mich.

Letter forwarded here period buttons mailed to you answer to Trebilcock July twenty second period will send more as soon as news supply received.

Paul H. King. 4:53 PM

GOV. EX. 94-L.

Marquette Aug.12, 1918.

To:
E. V. Chilson,
310 Ford Bldg,
Detroit, Mich.
Yes you are authorized to use name F. H. Vanderboom also that of representative W. S. Ewing who is also a farmer if you desire.

M. J. Sherwood.

GOV. EX. 94-M

Marquette, Aug. 13, 1918.

Dudley C. Houck,
Iron Wood, Mich.
Will see you tomorrow morning.

James F. McGregor.

GOV. EX. 94-N.

Detroit, Mich. 12 viz Ironmtn
Mich. Aug. 13,18.

James F. McGregor,
c/o Marquette Hotel,
Marquette, Mich.
Have letter from Chrbassa relative Ontonagon County please get into touch with him at once am glad you are getting along so well everything looks good here.

Paul H. King.

GOV. EX. 94-O

(Western Union Telegram)

Detroit,Mich.Aug.18

Myron T. Sherwood,
Marquette, Mich.
Approaching last week with confidence splendid report from every part of state only danger may be over-confidence let us not fail for this reason but go after every vote opposition may resort to eleventh hour tactics but now you will not be disturbed agricultural advertisement sent to all papers except democratic if you wish to add additional names local farmers have editors saw off end of plate and add as many names as you wish. Kindest personal regards.

Paul S. King, 748 A 19th.

GOV. EXHIBIT 94-P

(Western Union Telegram)

Detroit, Mich. August 18,

Wm. Trebilcock,
Marquette, Mich.
Approaching last week with confidence splendid reports from every part of state only danger may be over-confidence let us not fail for this reason but go after every vote. Opposition may resort to eleventh hour tactics but know you will not be disturbed agricultural advertisement sent to all papers except democratic if you wish to add additional names local farmers have editors saw off end of plate and add as many names as you wish. Kindest personal regards.

Paul H. King 75 0 19th.

GOV. EX. 94-Q

(Western Union Telegram)

Marquette, Aug. 21st,1918.

Dudley C. Houck,
Ironwood, Mich.
Sherwood and myself have used every effort to get you a speaker but have failed. You may be able to get one. We are going to win and we want your county to be at the head of the list. Wire returns to us at our expense.

James F. McGregor.

GOV. EX. 94-R

(Western Union Telegram)

Marquette, Mich. August 21st, 1918.

Paul H. King,
310 Ford Bldg,
Detroit, Mich.
Do not allow Andrews to interfere with any counties in the Upper Peninsula except Menominee as to speakers or anything else. Sherwood and myself have spent all afternoon fixing up his butting in on speakers. Our committees can make their own arrangements. We would not have the fight in Delta if it was not for him. Sherwood and Mangum indorse the above.

James F. McGregor.

GOV. EXHIBIT 94-S

Marquette, August 21st, 1918

Paul H. King,
310 Ford Bldg,
Detroit, Mich.

Marquette County for Newberry had a conference today with Duncan Sherwood and Trebilcock. Made a good deal for Iron county which we will carry and will explain when I get home. Going to Munising tomorrow and return here. Am calling up our committee in Iron District as to conditions so far reports good.

James F. McGregor.

GOV. EX. 94-T

(Western Union Telegram)

Detroit, Mich. 12:38 PM
Aug. 21, 1918.

James G. McGregor,
c/o Marquette House,
Marquette, Mich.

A. K. Moore will report to Mr. Sherwood Thursday as per his request hope you can make some arrangement to get returns Tuesday and let me know Grand Rapids.

Chas. A. Floyd.

GOV. EXHIBITS 94-U

(Western Union Telegram)

Marquette, August 21,1918

Charles A. Floyd,
Grand Rapids, Mich.

Will have returns sent to you Marquette County is for us. Made a deal today that will land Iron County for us. Dickinson fine. Copper country solid. Delta good fight. Gogebic in good shape. Will carry the U.P. by a good majority. Wire me how the news.

James F. McGregor.

GOV. EX. 94-V

(Western Union Telegram)

New York, NY 1:51PM
Aug. 23, 1918.

William Trebilcock,
Marquette, Mich.

Please accept my sincere congratulations and heartfelt thanks and appreciation for all your hard work and that of all our friends in your city.

Truman H. Newberry 2:07 PM

GOV. Ex. 94-W

(Western Union Telegram)

St. Ignace, Mich. Aug/28,1918

Hon. Myron Sherwood,
Marquette, Mich.

Congratulations your grand Newberry victory see you next week.

James F. McGregor.

GOV. EX. 94-X

(Western Union Telegram)

New York, NY 2:50PM Aug.28,'18.

Myron J. Sherwood,
Marquette, Mich.

Heartfelt congratulations and thanks on the splendid results of your earnest efforts and the efforts of all our good friends in your city.

Truman H. Newberry.

GOV. EX. 94-Y

(Western Union Telegram)

New York, NY Aug. 28, 1918.

Wm. Trebilcock,
Ishpeming, Mich.

Please accept my sincere congratulations and heartfelt thanks and appreciation for all your hard work and that of all our friends in your city.

Truman H. Newberry.

GOV. EX. 94-Z

(Western Union Telegram)

Detroit, Mich. 4:30PM Sep.9,18

Myron J. Sherwood,
Marquette, Mich.

Hope you can have strong resolutions endorsing Newberry passed at County Convention tomorrow.

Paul H. King,
8:57 PM

GOV. EX. 94-AA

(Western Union Telegram)

Marquette, Oct. 7, 1918.

James T. Fisher,
Lauriam, Mich.

Everything all right back Houghton tonight tell Gilbert.

James F. McGregor

GOV. EX. 94BB

Detroit, Mich. 11:03AM
Oct. 7, 1918.

Jas F. McGregor,
Hotel Marquette,
Marquette, Mich.

Wait there for messenger.

Chil 12:39 PM

GOV. EX. 94-CC

Marquette, Oct. 22. 1918.

Paul H. King,
310 Ford Bldg,
Detroit, Mich.

Had a fine visit with MM Duncan today and he is looking after Organization splendid also Sherwood Tribelcock Bell and others results splendid Munising tomorrow Manistique Park Hotel Soo Send buttons if you have them to Newberry Chairman or cards Hotel Mqt.

James F. McGregor

GOV. EX 94-DD

Detroit, Mich. 11:03 AM
Oct. 7, 1918.

Myron T. Sherwood,
Marquette, Mich.
Hold McGregor Marquette for messenger leaving tonight.
X Chil 12:26 PM

THE WITNESS (Continuing):

The papers now shown me are from the files of the company's office at Marshall, Michigan.

The papers referred to by the witness were marked Government Exhibits Nos. 95, 95-A, 95-B and were admitted in evidence and read to the jury, as follows:

GOV. EX. 95

Marshall, Mich. Aug.5, 1918.

To:
Paul H. King,
310 Ford Bldg.
Detroit, Mich.
Everything looking fine. Tell Chilson no speakers will be used at picnic Wednesday. Will have large banner up.

T. W. Bigger

GOV. EX. 95-A

Marshall, Mich. Aug. 26,1918.

Richard H. Fletcher,
Bay City, Mich.
Situation at Battle Creek getting serious. Democrats may get local man in Federal Employment Office which has just opened. Bailey trying to get Fred Hayes back. Business men all want Sallows. Offices should be consolidated. Call me in the morning.

T. W. Bigger

GOV. EX. 95-B

New York, NY Aug. 28, 1918.

Thomas B. Bigger,
Marshall, Mich.
Heartfelt congratulations and thanks on the splendid results of your earnest efforts.

Truman H. Newberry.

E. WITNESS (Continuing): The papers now shown me, rked Gov. Exhs. 96 to 96-K inclusive, are the regular busis of the Western Union of Kalkaska.

The papers referred to by the witness were admitted in evice and read to the jury as follows:

GOVERNMENT EXHIBIT 96

Big Rapids, Mich.,
June 28, 1918.

Josh L. Boyd,
Kalkaska, Michigan

Sorry we missed you Traverse City Paul and I arrive Cadillac sixthirty today for supper meeting with Wexford Committee and delegation from Missaukee would like very much to have you and Mr. Smith Present.

Charles A. Floyd.

GOVERNMENT EXHIBIT 96-A

Detroit, Mich July 18, 1918

Josh Boyd
Kalkaska, Michigan.

Petitions received from every county but yours wish to make report representative showing when filing. Kindly send what you can by mail today.

Paul H. King.

GOVERNMENT EXHIBIT 96-B

July 26, 1918.

Charles Floyd,
Grand Rapids, Michigan

Leaving at 7:50 tonight, arrive midnight at Pantlind.

Mike.

GOVERNMENT EXHIBIT 96-C

Detroit, Michigan Aug.10,1918

E. C. Smith

Please wire us Monday morning names of two very prominent farmers of your county who are recognized leaders in agriculture who will authorize use of their names in newspapers endorsing candidacy of Commander Newberry. You can state N.P.Hull Lansing heads the list.

Paul H. King.

GOVERNMENT EXHIBIT 96-D

Detroit, Mich. Aug.12,1918

Nowack,
Kalkaska,
Compelled to hold up your request until Mr. King returns Wednesday.

Newberry Headquarters.

GOVERNMENT EXHIBIT 96-E

Kalkaska, August 15, 1918

Paul H. King,
310 Ford Bldg,
Detroit, Mich.
May use these names. Arthur Woodhames of Westwood and Peter Etzcorn of South Boardman.

Ernest C. Smith.

GOVERNMENT EXHIBIT 96-F

Detroit, Mich. Aug. 16, 1918

E. C. Smith
Please wire me names of 2 or 3 most representative business men in county who will authorzie published endorsement of Newberry.

Paul H. King.

GOVERNMENT EXHIBIT 96-G

Detroit, Mich. Aug. 17, 1918

Ed. A. Nowack,
On return to office find your letter am taking matter up today will advise you.

Paul H. King.

GOVERNMENT EXHIBIT 96-H

Kalkaska, Mich. Aug. 17, 1918.

Paul H. King,
310 Ford Bldg.
Detroit, Mich.
Use names of business men. George F. Bow of Kalkaska Frank S. Young of South Boardman and John Wright of Rapid City.

E. C. Smith

GOVERNMENT EXHIBIT 96-I

New York,N.Y. Aug.28, 1918.

E. C. Smith,
Kalkaska, Mich.

Please accept my sincere congratulations and heartfelt thanks and appreciation for all your hard work.

Truman H. Newberry.

GOVERNMENT EXHIBIT 96-J

Detroit, Mich. Sept.9, 1918

E. C. Smith,
Kalkaska, Mich.

Hope you can have strong resolutions endorsing Newberry passed at County convention tomorrow.

Paul H. King.

GOVERNMENT EXHIBIT 96-K

Detroit, Mich. Sept.14, 1918

Edw. A. Nowack,
Kalkaska, Mich.

Just returned from a two weeks enforced absence and could not write you as anticipated and will take this up immediately and advise.

Charles A. Floyd.

The authenticity of the following telegrams marked Government Exhibits 97 to 97-Z inclusive being conceded, the same were admitted in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT 97

Escanaba, Mich July 11, 1918

Paul H. King,
310 Ford Building,
Detroit Mich

Tell Paul his wishes are being fulfilled. Have three counties finished and will get balance. Personally visited the Soo and left an Ambassador without any danger of a misunderstanding or resentment. Detail report will come through Jim. Address care Roger Andrews Saturday night until Sunday noon care McGregor County Treasurer Iron Mountain all day Monday.

Chas.

GOVERNMENT EXHIBIT 97-B

Escanaba, Mich. July 11, 1918

Paul H. King
310 Ford Bldg.
Detroit, Mich.

Organization completed and in the best of condition in Schoolcraft County. Send Benjamin Gero Manistee cuts and write ups for his paper. Will be Ironwood St. James Hotel tomorrow night. Charles Floyd with me.

James F. McGregor.

GOVERNMENT EXHIBIT 97-C

Escanaba, Mich July 11,1918

Hon. Judd Yelland
care of Judge Fred Pratt
Traverse City, Mich.

Hope I can see you Saturday afternoon here so I can leave that night.

Charles A. Floyd.

GOVERNMENT EXHIBIT 97-D

Escanaba, Mich 7-14-18

Paul H. King
310 Ford Bldg
Detroit

Have finished Gogebec, Menominee, Delta, Schoolcraft, Luce, Mackinac, Alger all set as you wished Iron and Dickenson tomorrow; leave Tuesday morning for copper country.

GOVERNMENT EXHIBIT 97-E

(Being the second page of 97-D)

"Think you will see progress commencing immediately. Expressed you today complete mailing list Delta, includes both parties. Please circulate promptly.

Chas.

GOVERNMENT EXHIBIT 97-F

Escanaba, Mich. July 15, 1918

Paul H. King
310 Ford Bldg
Detroit Mich

Do not use list of voters which I handed to Floyd. Am sending another list by mail.

Judd Yelland.

GOVERNMENT EXHIBIT 97-G

Detroit Mich July 18, 1918

Hon Judd Yelland, Escanaba, Mich.

Petitions received from every county but yours wish to make representative showing when filing. Kindly send what you can by mail today.

Paul H. King.

GOVERNMENT EXHIBIT 97-H

Detroit, Mich. July 20, 1918

Hon. Judd Yelland Escanaba Mich

Wire received; McGregor at Marquette care Hotel Marquette; am asking him to communicate with you.

Paul H. King.

GOVERNMENT EXHIBIT 97-i

Escanaba, Mich 7-20-1918

Paul H King 310 Ford Bldg. Detroit Michigan

Wire me where I can reach McGregor. Will be in Escanaba soon.

Judd Yelland.

GOVERNMENT EXHIBBIT 97-J

Detroit Mich July 28, 1918

Judd Yelland Escanaba Mich

Petition filed for Ford both parties. James Helme filed for Democrat nomination.

B. F. Emery

GOVERNMENT EXHIBIT 97-K

Escanaba, Aug 7, 1918

Paul H. King, 310 Ford Bldg., Detroit, Mich.

Yelland, Detsch and myself toured part of the township today and more tomorrow and things look good. Send Yelland two thousand blue cards. Osborn spoke here last week to a small crowd.

James F. McGregor.

GOVERNMENT EXHIBIT 97-L

Escanaba, Mich Aug.8, 1918

Paul H. King 310 Ford Bldg Detroit Mich

Made some more townships today and find them good for our candidate but considerable work has to be done in Gladstone and here. Yelland has organized good. Considerable Osborn sentiment here, but expect to overcome it. Will leave for Iron Mountain in the morning and will write.

James F. McGregor.

GOVERNMENT EXHIBIT 97-M

Detroit, Mich Aug.17, 1918

Hon. Judd Yelland Escanaba

Have every confidence in your ability to handle situation. Am asking Andrews to help you.

Paul H. King.

GOVERNMENT EXHIBIT 97-N

Escanaba Mich. Aug 17, 1918

Paul H. King, 310 Ford Bldg. Detroit Mich.

Andrews left for Detroit. Must have help by first of week. We have them on the go. Journal has made attack on Newberry. We have most effective organization. Have explained to Andrews who will report to you.

Judd Yelland.

GOVERNMENT EXHIBIT 97-O

Detroit, Mich. Aug.18, 1918

Hon.Judd Yelland, Escanaba, Mich.

Approaching last week with confidence. Splendid reports from every part of state. Only danger may be over confidence Let us not fail for this reason but go after every vote. Opposition may resort to eleventh hour tactics but know you will not be disturbed. Agricultural advertisement sent to all papers except Democrat. If you wish to add additional names local farmers have editors saw off end of plate and add as many names as you wish. Kindest regards

Paul H. King.

GOVERNMENT EXHIBIT 97-P

Detroit, Mich. Aug. 12, 1918

Hon. Judd Yeliand, Escanaba, Mich.

Your plans approved and congratulate you upon excellent work period will telephone you Wednesday and probably see you Thursday morning.

Roger M. Andrews.

GOVERNMENT EXHIBIT 97-Q

Escanaba, Mich 8-18-1918

Roger M. Andrews, Hotel Statler, Detroit, Mich.

Your telegram put new life in our organization. I promise to give Newberry a substantial majority in Delta County.

Judd Yelland.

GOVERNMENT EXHIBIT 97-R

Lansing, Mich. Aug.19, 1918

Hon.Judd Yelland, Escanaba, Mich.

Arrive Escanaba Wednesday morning 7 o'clock. Meet me Delta early.

Roger M. Andrews.

GOVERNMENT EXHIBIT 97-S

C.& N. W. Station

Fond du Lac Wis 1918

Hon Judd Yelland, Escanaba Mich

If possible meet me Escanaba depot 6 o'clock Wednesday morning so I can take 7:05 train south

R. M. Andrews

GOVERNMENT EXHIBIT 97-T

Munising Mich Aug 22, 1918

Hon. Judd Yelland, Escanaba, Mich

Meet me tonight train from Marquette at depot

James F. McGregor

GOVERNMENT EXHIBIT 97-U

Escanaba, Mich Aug. 23, 1918

John D. Mangum, Marquette, Mich

McGregor left last night for Chicago on way to Detroit.

Judd Yelland.

GOVERNMENT EXHIBIT 97-V

New York, N.Y. Aug 28, 1918

Hon Judd Yelland, Escanaba, Mich
Please accept my sincere congratulations and heartfelt thanks and appreciation for all your hard work.

Truman H. Newberry

GOVERNMENT EXHIBIT 97-W

Detroit, Mich Sept 9, 1918

Hon Judd Yelland, Escanaba, Mich
Hope you can have strong resolution endorsing Newberry passed at county convention tomorrow.

Paul H. King.

GOVERNMENT EXHIBIT 97-X

Escanaba, Mich Oct.16,1918.

Charles A. Floyd, 310 Ford Bldg. Detroit, Mich
Arrived tonight. Watch out for counties where public gatherings are forbidden and see that we get proper advertising in such places. Dickenson county ordered closed. Will spend a few days with Yelland.

James F. McGregor.

GOVERNMENT EXHIBIT 97-Y

Escanaba, Mich Oct,20, 1918.

Chas. A. Floyd Grand Rapids, Mich
Marquette tomorrow. Delta in good shape. Osborn vote going to us. Have you any suggestions in reference to Chippewa county.

James F. McGregor.

GOVERNMENT EXHIBIT 97-Z

Escanaba, Mich. Oct 20, 1918

Paul H. King 310 Ford Bldg. Detroit, Mich.
Marquette tomorrow, Marquette hotel. Delta in good shape Osborn vote here goes to Commander. Give Harry Turner my address. Have you any suggestions about Chippewa County.

James F. McGregor.

ANGUS G. MACEACHRON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit and am Advertising Manager for the Detroit Legal News. I was a traveling man up until about ten years ago. In 1918 I was with the Detroit Legal News. I was at that time and have been for 24 years a member of the United Commercial Traveler's of America. I know Paul King. I went to the Newberry Senatorial Headquarters during the campaign for the purpose of seeing him, and at one time I talked with him about taking some employment with the Newberry Senatorial Committee. I did not talk to him about the traveling men's organization but the travelling men in general. Our order does not allow us to talk politics or religion in the council rooms, but we have perfect liberty to talk what we please just before the meeting commences and just after. That is what I told Mr. King. I told him that I thought if I could get in touch with the travelling men throughout the state that I could do Mr. Newberry some good. I told him I would call where there were meetings. Naturally I would see more at that time than any other. The arrangement was made for me to get in touch with the travelling men, that is all; nothing was said about quitting my other employment. I was to do the work whenever I could get in touch with them. They held their meetings Saturday nights. I told Mr. King that I had attended certain meetings. I attended meetings at Grand Rapids, Battle Creek, Lansing, Flint, Saginaw. I was also in attendance at the Grand Council Meeting at Jackson, and I took up the matter at my own council and also with the other council in the city of Detroit. I went to no other places in connection with my work and did nothing except when I started out on the Good Roads Tour with the Michigan Pike Association. I went to these meetings for the purpose of assisting the candidacy of Mr. Newberry. I went to talk with the travelling men, not at their meetings, but in their ante rooms and wherever else I could find them. My work consisted of just talking to the travelling men; nothing else. Mr. King told me at the time I was employed that I was to get $50.00 a week. I devoted about ten week ends to it. I would leave on Friday as a rule and get back Sunday night, or sometime Sunday. And in the interim I boosted Mr. Newberry's campaign among traveling men. For that I drew in all, for salary and expenses $850.00. About $500 of that was salary and $350 expenses in making these trips. I included cigars which I bought for myself and others as expenses. I got this $350 back. It came through either Mr. Emery or Mr. Turner, who-

ever paid the money out at headquarters. My salary came through the same sources; sometimes Mr. Turner handed it to me, and sometimes Mr. Emery. I think I was paid the first two times by a check on the Commonwealth Bank and the other time I was paid in the office of the Newberry Senatorial Headquarters in the Ford Building. I told Mr. King I was going out on the Good Roads Meetings, and that I would do what I could while I was gone to further Mr. Newberry's candidacy. I distributed Newberry literature, at one of the good roads meetings. It was at a Farmers Picnic at Mikado. I received these moneys for my expenses before I would start out on a trip. I could not name the amount exactly. Sometimes it would be more and sometimes it would be less, according to what I thought it would cost. Sometimes it would be $50 sometimes it would be less than that. I never received over $50 before I started out that I remember of. I do not think I ever received less than $25. I did not submit a written statement to them of the amount I wanted. I merely told Mr. King I would need about so much money and they gave it to me. There were no written statements when I got back. I think I rendered one on Grand Rapids and the following meeting I attended. I am not certain whether that was Lansing or Battle Creek. Those are the only two written statements that I remember of.

CROSS EXAMINATION BY MR. LITTLETON:

I was gone about ten days on the trip known as the East Michigan Pike trip. I had Newberry literature with me when I went out, some of which I distributed in different places.

RE-DIRECT EXAMINATION BY MR. DAILEY:

I could not give you the exact places. I did not go out among the crowd. I dropped it into the different stores and places. We only stopped a few minutes in each town. Wherever I got an opportunity I distributed it. At these good roads meetings themselves I did not distribute the Newberry literature, except at one place and that was Mikado. I was in the pay of the Newberry committee during the time I was making this Good Roads trip and received my salary during that time.

RICHARD M. HOFFMAN, sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Manistee. I am in the wood business and I am county road commissioner. I held that office in 1918. I know the de-

fendant August Field. In that year Mr. Field requested me to distribute Newberry literature throughout the county and city. I made about 23 special trips for that purpose. I listed the various towns. The trips for this literature were taken entirely for that purpose. I took this literature with me at times in connection with my work for the county. That is not a part of the 23 trips that I mentioned. At the time Mr. Field asked me to do this work he gave me $100 besides the literature. I had done nothing by way of distributing this Newberry literature before I received the $100.

CROSS EXAMINATION BY MR. LITTLETON:

I made 23 trips out upon the road in various directions and to the little towns. I drove through various townships of my county. I visited probably six different townships for the special purpose of distributing literature. A great deal of it was distributed throughout the city and the various wards of Manistee, which has a population of about 14,000. I distributed the literature very thoroughly throughout the city. My boy did a great share of the distributing through the city. Altogether I engaged in the distribution of the literature for a full three weeks, something doing every day. Incidentally when I was on my work as county road commissioner I occasionally distributed literature. But these trips to which I have referred were entirely apart from that work.

RE-DIRECT EXAMINATION BY MR. DAILEY:

I paid out none of this $100 except that I bought my boy a new suit of clothes.

JOHN WILLIAM POULTNEY, sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Bay City. I am baggage agent of the Pere Marquette. I have lived at Bay City all my life. In the early part of 1918 I met the defendant, Allan K. Moore, at the baggage room of the Pere Marquette in Bay City. Mr. George R. Murray, of Muskegon, was with him. Mr. Moore asked me if I would circulate petitions and distribute literature to help him out in Mr. Newberry's campaign for United States Senator. I said I would do the best I could for him. He gave me some Newberry petitions and $20 at that time. I circulated these petitions and forwarded them to Mr. Moore by mail. During the latter part of

the campaign he sent me $45 through Post Office Money Order, making $65 turned over to me. I think he gave me five petitions. He said have some of your friends help you out; so he gave me some more petitions to distribute amongst my friends to help me out. I believe I gave to Nelson Jalnar, a merchant, Christopher Kuse, a railroad man, and George Decouracy, a shoe clerk, each five petitions. I think Moore sent me about fifteen by mail. Out of that $45 I gave $10 each to the men. The rest of it I retained.

CROSS EXAMINATION BY MR. LITTLETON:

I had the petitions circulated. I gave some to each of these men, and I peddled some myself in town and to the railroad men.

CLARENCE McNULTY, a witness sworn on behalf of the Government, Testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived at Flint twelve or thirteen years. I am in the railroad business—a warehouse foreman, and I was such in 1918. I met Allan K. Moore at a railroad men's relief meeting in 1918. George Murray of Muskegon was with him. That night I had a talk with Moore and he gave me $10 and a package of probably 150 pamphlets. I took the pamphlets up to the warehouse and laid them on the desk and distributed them in that way, that is, I let people take them as they came in. I did nothing else. Mr. Moore did not give me any more than the $10 and I never saw him afterwards.

EDWARD ALEXANDER MASON, sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is at Crawford, Grayling County, Michigan. I am in the railroad business—engine house foreman. In 1918 I was living in Grayling. I became acquainted with Allan K. Moore of Grand Rapids at that time. He came to the round house to see me. He had a letter of introduction from Mr. George Murray, of Muskegon. Mr. Moore had some blank Newberry petitions with him at the time. He delivered a few—not more than three—of them to me and asked me to circulate them and get them signed. He also gave me $25 in money. I saw Mr. Moore later in the campaign at the round house in Grayling. At that time he collected the petitions that I had circulated. I

paid out $5.00 as he directed me to, to one man for circulating one petition. On this second visit Mr. Moore collected the petitions. He gave me $20 the third time he come up there. I do not believe he handed me literature any time he was there. Some was sent in by him, which I circulated just from my pockets among the railroad people who called at my office. $40 of this $45 that I got was mine, and $5 for somebody else. I paid out only the $5.

CROSS EXAMINATION BY MR. LITTLETON:

I have been a railroad man going on twenty-five years. I know Mr. George Murray. I started to circulate the petitions, but someone had been there before me and I did not canvass the town. Moore gave me either two or three petitions. When I had them signed up, I held them until Mr. Moore came for them. I agreed with him on the first trip that I would have these petitions signed up, and I did that. I believe he told me in the first conversation he would send me some literature, and I agreed with him I would circulate it around the shop there and among the men I came in contact with; that was the understanding. I got one bundle that I know of. Mr. Murray was with him on the third trip and came to the round house with Mr. Moore. I had in the meantime circulated literature that was forwarded to me by mail. I could not say whether I received any literature after that third visit. About fifty men were engaged in the work about the round house. I was a Newberry man.

G. R. LLOYD, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Jackson, and have lived in Michigan all my life. I am a lever man and operator with the Michigan Central road and work in a tower. I met Allan K. Moore about the first part of June. He came up into the tower alone and asked me if I would circulate the Newberry petition for the primary for him, and I said I would. I think he gave me three of them to circulate, and he also gave me $15. Later they sent me some literature by mail. I saw Mr. Moore again in August, at the tower, at which time he left $25 there. Mr. Moore did not give me anything besides the two amounts which I have mentioned during the campaign. I did not pay any of it out. Besides circulating the petition, he wanted me to distribute some circulars for him.

CROSS EXAMINATION BY MR. LITTLETON:

I told him at the time it would not cost him anything but he left the money there. He said you will be out some money for the gasoline and your work, and he left the money there, anyway. I was a Newberry man. I got over two of the petitions filled up, I think. There was over 100 names. I went with them myself amongst my friends, down to the depot and around the railroad where I worked. After I had the petitions filled out, I sent them to the Detroit office. I also distributed the literature which I received among the men. Whenever I would go out, I would have it in my pocket and I would hand them to railroad men when they were where I was, or when I was where they were. I continued to distribute literature off and on, I guess, during the whole campaign. There are a large number of railroad men employed around Jackson. I think there are three or four roads run in there.

RAY LARABEE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived at Flint, Michigan, all my life time. I am, and in 1918 I was engaged in railroad work as Car House Foreman, at the D. U. R. I remember a man coming to me in 1918 with two Newberry petitions, which he delivered to me. He also gave me $10. I did not see that man again during the campaign. I passed the petitions around the car house and had the men there sign them. Then as near as I can remember it I mailed them to Grand Rapids. The man gave me an address to mail them to at the time he gave me the $10, and I mailed them to that address. I don't know Mr. Allan K. Moore. I do not remember now whether or not I sent the petitions to Allan K. Moore at Grand Rapids; I do not think that was the man.

E. S. DESY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is in Mackinaw City, Michigan. I have been engaged in railroad work there about eleven years. I am car foreman with the Michigan Central. I met Mr. Allan K. Moore

on two different occasions. The first occasion was in the Senatorial campaign of 1918. He met me at my work and told me that he was out trying to get a straw vote on the senatorial campaign as to the chances of the different candidates, particularly Mr. Newberry. I told him that I had not given it any thought at all, and he wanted to know how the men were, and I told him that I had not spoken to them or I did not know how they felt about it, and he wanted to know how I felt toward Mr. Ford. Well, I said, so far as Mr. Ford is concerned, I do not think I would vote for him anyway. He spoke to me about supporting Mr. Newberry, and I told him I did not know who I would support; that I thought that I would probably vote the Republican ticket. He asked me if I would not interest myself in behalf of Mr. Newberry, and I said I would not do it, I would not interest myself in no man in no campaign. He wanted me to distribute some literature, and I refused. I told him, no, I would not interest myself in it in no way; that I did not want to use my job to influence any of my men's votes; and he left some literature on my desk. I did not distribute it, I destroyed it. Mr. Moore came to me a second time during the campaign accompanied by Mr. George Murray, whom I knew. Mr. Murray came up to me, shook hands with me, and said that he would like to call a meeting of the railway men's association that night, and he wanted to know if I would notify the boys. I told him I would; and he says, "We are going to have a little business that I would like to bring up." After that he says probably a little social session and some smokes. He says, "We will have a little smoker." He says, "Are you acquainted with Mr. Moore?" I told him I met the gentleman, and he says, "Mr. Moore will be with us and I think probably give us a little talk." Mr. Murray stepped away from me to talk to someone else that happened to come along there, and Mr. Moore asked me then, how is the Senatorial question coming on. I says, "There appears to be very big sentiment lately around in favor of Mr. Newberry." He said, "There is nothing to it; we have got the man and we have got them all licked," and he started to reach in his pocket for a cigar I thought. He said, "I am sorry I have not got any cigars with me." I says, "I am sorry, too; I feel like smoking." He reached in his pocket and handed me a bill, stuck a bill in my pocket, and I did not notice what it was or the amount or anything. He says, "Buy yourself some cigars." I says, "All right." I left him then and afterwards I found it was a $10 bill. I did no work in behalf of Mr. Newberry during the campaign. I circulated no petitions or no literature.

CROSS EXAMINATION BY MR. LITTLETON:

The $10 bill did not influence my vote. I attended the meeting as one of the railroad men and heard what went on. Mr. Murray had asked me to notify the men that there would be a meeting that night, and I did that because he asked me to do it. He was the President of the Railway Men's Relief Association.

JOHN H. MURRAY, a witness sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit and am a brother of George Murray, of Muskegon. I am soliciting insurance for the Railway Men's Relief Association, of which my brother is President. My home was in Detroit in 1918. During that year I received an invitation to come to the Ponchartrain Hotel to see Doctor Smith and Allan K. Moore. I had previously met Dr. Smith in the lobby of the Hotel Ponchartrain, and went with him to Mr. Moore's room, where I had a talk with Mr. Moore in the presence of Dr. Smith. Mr. Moore asked me if I would circulate petitions for Mr. Newberry in the campaign for the nomination—if I would introduce them at some later time around among the different railroad men and the street car men in the City of Detroit. I told him I would. I saw Mr. Moore again when he came to Detroit later. He asked me if I had the time to go out with them and introduce them to the different steam railroad men around the city, and I told them my time was my own and I thought I would have time that day to take them around. I took them to the Michigan Central yards and the Grand Trunk, Pere Marquette, and I think those were the three different roads I took them to that day. I introduced him to men in each of those yards—I should think eight or ten altogether. He left Newberry petitions with each of them. On this second trip Mr. Moore gave me $100. He says, "Now, Murray, when you take up these petitions, those men will expect something for their work and you pay them something for their work." Nothing was said at that time about any pay for me. I saw Moore later; I do not know whether two or three weeks later than that he came over there again looking up to see what petitions was filled up and see what was done in Detroit on that line. I had collected them in the meantime. He gave me $100 that trip, and some more of the petitions to get out. I went out myself among the steam railroad men. I was out soliciting members for this insurance and

I stayed out and saw the night crews and had the men sign up petitions. I saw Moore again somewhat later in the campaign; maybe two or three weeks later he came over. That time he gave me $50. During these trips he gave me some pamphlets, some of which I distributed myself. I put them in my pocket and handed them to the men when I was around among them, and left them around different places where the men would pick them up and read them. Out of this $250 that Mr. Moore gave me, I paid out somewhere about $82, as near as I can remember. I paid Mr. J. H. Coon that was on an electric line over there $25. I also gave Coon a little bunch of petitions to circulate, something like four or five, and some circulars. I also gave $25 to a man by the name of Gus Raleigh, an electric railway conductor on the street car lines of Detroit, together with some of these petitions. I gave Andrew Templeton of the Grand Trunk a steam man, in the neighborhood of $25. I gave him some petitions also, and I think I gave him some of these pamphlets. I am sure I gave pamphlets to these other two men—maybe a dozen or two. I had a pocket full of them most of the time. In addition to the three lots of $25, I probably paid out $7 in addition. I cannot remember to whom I gave the $7. There was several that just filled up part of a petition, that just started one, and I would take it away from them, or if they did not fill up the petition, I would not give them anything. I know these men that Moore and I went to when I introduced him. I gave them nothing on that occasion, nor did he. All I heard him say about money with reference to those men was what he said to me when he gave me the first $100. There was nothing said about money whatever on the first trip. The second trip, there was nothing said until after the petitions were given out and he went away. He gave me this $100 and he says, "Pay the men something when you pick up your petitions." Part of them did not do anything on the petitions. They may get a few names and hand it back to me, and tell me they did not have the time to bother with them. On one of these occasions when Mr. Moore was in Detroit, he took me to the Newberry Senatorial Headquarters in the Ford Building and introduced me to Mr. Paul King.

CROSS EXAMINATION BY MR. LITTLETON:

I have been in the railroad business about thirty years. I was a Newberry man before Mr. Moore and Dr. Smith came to Detroit. I do not know Senator Newberry, except by what I have read about him. I had read that he had been identified with the railroad business. Dr. Smith did not come to Detroit with

Mr. Moore on any other trip except the first one. During this conversation at the Ponchartrain Hotel, nothing was said to me by Mr. Moore about the payment of any money in the circulation of petitions; nothing was said about any money in any way, directly or indirectly. That was the only occasion that Dr. Smith was there. Mr. Moore gave me petitions on the first occasion when I saw him and asked me to have them circulated. I think that was about the middle of June. I took them around the railroad yards and among the train crews and different railroaders. I think about 20,000 men are engaged in railroad work in Detroit. I asked the men to whom I gave the petitions if they would circulate a petition for Mr. Newberry. I went out and picked them up myself. There were 45 or 50 of them altogether. Then I turned them over to the Detroit headquarters. I do not think Mr. Moore had given me any literature to circulate on the first occasion when I met him. On the second occasion, we went over to the Detroit headquarters and got some there. I retained some of it myself and I gave the men that I gave petitions to some of the circulars to throw around, pass out to the different men.

GENEVIEVE COLLINS, sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit. I am booker at the Hyman Attractions, formerly the Dawn Master Play Company, which was the name under which it operated in 1918. At that time I was employed as booker, the same capacity which I now occupy. The business of the concern was renting and distributing films to the moving picture theatres in Michigan. As booking clerk my work was to see that the proper theatre received the correct show, and on the day that they wanted that show for. These films were distributed according to a system or plan; some were set up on circuits and some were just used on shows. Each theatre is handled a little different from the others. A list of the picture houses where certain films were to be shown was provided me. I had contracts giving the date that they desired to use the film. I know of a film being handled by the Dawn Master Play Co. entitled "Our Navy." We handled it for just the month of August 1918. We distributed free to any theatre that desired to run it, and on the date they asked for. Our films ordinarily were sent out on a rental basis and a percentage basis, but I was instructed to send this particular film out free of charge. Pre-

liminary to sending out the films, we distributed a small postal card telling the theatres that they could have this film and just to sign it and return it to us. The printed portion of the card now shown me, marked Government Exhibit No. 100, is the card that I sent out.

MR. EICHHORN offered the printed portion of the exhibit in evidence, and the same was received and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 100

"During the month of August we shall release free to every exhibitor in the State of Michigan, single reel entitled "Our Navy," showing some wonderful, startling developments.

"One sheet and three sheets also are free.

"Wire and we shall arrange to have you show this interesting little release "Our Navy" at your theatre during the month of August."

DAWN MASTER PLAY COMPANY,
Owen Building, Detroit, Mich."

THE WITNESS (Continuing): The "one sheet and three sheets" are the posters that are displayed in front of a theatre. The paper now shown me is a "one sheet."

The paper referred to by the witness was marked "Government's Exhibit No. 101" for identification.

THE WITNESS (Continuing): The contract form or request form now shown me was also sent out to the moving picture houses in connection with the distribution of this film. This was carried by our salesmen and our road men, men who are out in the state. During the time that this film was being distributed, the Dawn Master Play Company had solicitors out visiting the different motion picture houses, but not specially for "Our Navy." We have road shows out on the big pictures and they were carrying this also and asked the theatre men if they would like to run the picture. If he did, he sent us a slip naming the date on which he wanted it. That was another form of application in addition to the card which I have identified. We had between 15 and 20 copies of the film "Our Navy." It was not the usual thing to have a large number of copies of the various films; we never had quite so many prints of any one. This was what was known as a one reel film. One reel is supposed to be about a thousand feet, but it was not quite a full reel. I

think the reel was sent to about 100 or 175 picture houses or theatres in the State of Michigan, possibly 200.

JOHN D. NADEAU, being sworn as a witness on behalf of the government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Monroe, Michigan, in Monroe County. I know the witness H. L. Babcock, since I see him here. I know Fred K. Cronenwett, who lives in Monroe County. I know Emory Mills. Prior to August 27th primary of 1918 I was asked by Fred Cronenwett to send out some Newberry cards at the fourth precinct in the city of Monroe. I attended at the polls, and passed out Newberry cards. He handed me a $5 bill one day. I went by him in Monroe. He went by me fast and handed me $5 as he went by me. I couldn't say how soon that was after the primaries. It might have been three, four, five days, or six days after. I had done nothing for Mr. Cronenwett except working at the polls there that day. That was the only thing I had done that he had owed me for.

CROSS EXAMINATION BY MR. LITTLETON:

I couldn't exactly say how long I have known Mr. Cronenwett, somewhere between eight and fifteen years. He was Sheriff of the county in 1918, and had been Sheriff I think two terms. I was a Newberry man before Primary day. I became a Newberry man when I first heard he was coming up. I wouldn't say where I got these Newberry cards, but somebody gave me the cards, and I cant say whether Mr. Cronenwett gave them to me or who did, but somebody gave me the cards. I distributed literature for Mr. Michener for Congress. On the same day I also distributed some cards for Mr. Moses Howe, who was a candidate at the primaries. No one else did any work for Mr. Newberry.

JOHN ROOS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Dundee, Monroe County. For the last year I was with the Monroe County Road Commissioners as foreman. I was a farmer in Monroe County and living there in 1918. I know Emory Mills. He lives in Dundee, across the street from where I live. In 1918 he was sprinkling the streets in Dundee village for me, driving team. In October I had a conversation

with him with reference to his quitting work; he said he couldn't help me out any more, that he would have to go to Monroe to take care of the county committee work. I do not remember that he quit my employment for a time before the primary. He just helped me out at different times while I was carrying the mail in the forenoon, and in the afternoon I would drive my own team, and he just helped me out at times that I had to have somebody. I do not remember his saying to me prior to the 1st of October about quitting the job that he had with me for work that paid him better, or that he would have to quit his job as he was offered more money to do election work. He said that he would have to go to Monroe and take care of the work. I do not remember that he said to me in that connection that he was offered more money to do election work. He did some work in the Newberry campaign. All I ever saw him do was to distribute literature. At two different times before the primary I drove an automobile to take him different places; one place was to Monroe, and one time was over south of Petersburg. We were on the trip to Monroe possibly a half day, and about the same on the other trip. Both times he allowed me $2.50 on my account, making $5 in all. I owed him some money at the time. After the primary he paid me $2.50. I heard a conversation in McIntire's garage at Monroe between Mills and some other person in which Mills said something about receiving a letter from the Newberry organization that a Mr. Brown, editor of the Dundee Reporter, who was a candidate for State Representative, would be taken care of.

HELEN E. BAUMANN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit, Michigan. I am employed by the Arthur S. Hyman Attractions, Incorporated, formerly known as the Dawn Master Play Company, and I was employed with them in 1918 as cashier and bookkeeper. The Dawn Master Play Company usually derived its revenue from the films it handled through rental or percentage from the show house where they were exhibited. The film entitled "Our Navy" was a gratis feature. The Dawn Master Play Company received nothing from the exhibitor for handling it.

CROSS EXAMINATION BY MR. LITTLETON:

Our films ordinarily are handled on a rental or percentage basis. This film "Our Navy" was handled "gratis" to the exhibitor.

RICHARD E. ALLEN, sworn on behalf of the Government testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Battle Creek about sixteen or seventeen years I am a locomotive engineer with the Grand Trunk and was such in 1918. In August 1918 I had a conversation with Mr. Paul King in the Ford Building, in Detroit, covering the Newberry Campaign. During the primary of 1918, the first person who spoke to me with reference to my interesting myself for Mr Newberry in his campaign was Mr. Mark McKee. As near as I can remember we were talking over the possibilities of the different candidates. The conversation took place in his office And he was of the opinion that Mr. Osborn could not carry the primary and Mr. Newberry would, and he wanted to know what I thought about Mr. Newberry, and I told him I didn't know whether he was favorable to labor or not, and that was what I wanted to know, whether he was a favorable candidate to labor, and he wanted to know, if he convinced me that he was, would I be willing to support him and I told him I would. He asked me if I would come back to his office at nine o'clock the next morning, which was on Sunday, and which I did so. He was not in and I was referred to Mr. Paul King, whom I found in the Newberry Senatorial Headquarters. Mr. King showed me the position Mr. Newberry had always taken on labor. This conversation with Mr. King was in August. After I got home Mr. Allan K. Moore came to see me at my house in Battle Creek. He asked me if I would be willing to go out and see if I could get some persons around through the different railroad centers for to circulate Newberry petitions. I told him that I could not afford to lay off and lose the time, and he told me that they would reimburse me for the time lost. He gave me $50 that day, as near as I can remember. I went around and saw people with the Newberry petitions. I went to Grand Rapids, Bay City, Saginaw, Flint, and Port Huron. Port Huron would have been on one of my regular trips as a locomotive engineer. I employed a man here in Grand Rapids to carry Newberry petitions. I cannot just remember his name now. I employed him at the Union Depot. He was a traveling engineer. If I remember right, I gave him in the neighborhood of three or four petitions and $10. I also employed a man by the name of R. D. Cutler in Bay City. I paid him $10 and gave him some blank Newberry petitions to circulate. I employed a man by the name of Roy Garsite, in Detroit, whom I gave $5. I did not pay

out any money for men to carry these petitions or do anything else, except this $25 that I have spoken of. When I was in Grand Rapids on the occasion that I have mentioned, I saw the defendant Floyd in the Newberry Senatorial Headquarters. He told me what he wanted me to do, to go around and circulate the petitions, and to give out some of the little folders, or to get men to do it. I cannot say whether he gave me $50 or $100, but to the best of my recollection it was $50. It was only $50 that Allan Moore gave me the first time; that is to the best of my recollection. I have said and thought it was either $50 and $100, just the same as I did with the other case. I kept no records, and it just seems to me it was between $50 and $100 I got some from him afterwards; not less than $50 and not more than $100 would cover it better than the other way. I say the same thing about the money I received from Mr. Floyd at the Newberry Senatorial Headquarters in Grand Rapids, because I could not swear positively it was one or the other, but I know it was not more than that; to the best of my recollection, that is all it was. These amounts were paid to me in cash. I gave no receipt and made no book entry of it. Between the time Mr. Moore paid me this first sum and the time Mr. Floyd gave me this amount, Moore had not given me any other money. Later George Murray came to my place at Battle Creek and gave me $150, which he said Mr. Moore had sent to me. That is all the money I got. I have mentioned all the men that I paid to do anything in connection with my work for Mr. Newberry. There was a man by the name of Livingston, a man by the name of Whiting, and my nephew in Battle Creek circulated petitions. I called on those three men in addition to those you have mentioned, also my son in Flint. The letter now shown me, marked Government Exhibit No. 103, came to me through the United States Mail at my residence in Battle Creek.

The paper referred to by the witness was received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 103.

"Truman H. Newberry, Detroit, Michigan.
New York, October 9, 1918.

Mr. Dick Allen,
400 Cliff Street,
Battle Creek, Mich.

My dear Mr. Allen:

I have learned with great pleasure of the part you took in helping bring about my nomination and I want

you to know that the splendid endorsement given me by Michigan Republicans is most gratifying and I am thoroughly appreciative of their support.

The issue will be the same in the election as in the primary and I am indeed glad to feel that I may count on your continued assistance.

With kindest regards and all good wishes, I remain

Sincerely yours,

Truman H. Newberry."

CROSS-EXAMINATION BY MR. LITTLETON:

I have lived in Battle Creek about 17 or 18 years. I am with the Brotherhood of Locomotive Engineers. I had known Mr. Mark McKee four or five years before the time I saw him in Detroit. I was associated with him in the campaign in regard to the amendment that the New Era Insurance was trying to get through in 1914. I had also known him as a member of the Fraternal Congress. I had met him frequently in these matters. I went to see him occasionally when I was in Detroit. He was legislative representative or chairman of the legislative board of the Locomotive Engineers. I had been to see him on many occasions when I was in Detroit, on the occasion regarding which I have testified I went to see him of my own accord. My visit had no reference to politics. I can't just remember how the subject of politics came up, or which of the two broached it first; it seems to me I asked what he thought about the Senatorial Campaign. He replied that Newberry was the man. And I told him I didn't know anything about Mr. Newberry whatever, as to what his stand would be towards labor, and he told me that he did not think Mr. Osborn could carry the nomination against Mr. Ford. I told Mr. McKee, I wasn't favorably impressed with Mr. Ford's stand that he takes on labor. It wound up, as near as I can remember, by him asking if I could be convinced Mr. Newberry would be favorable towards labor would I support him. I told him, yes. I saw Mr. King the following Monday morning in his office in the Ford Building.

I asked Mr. King what Mr. Newberry's position was towards labor. He went on and explained to me what Mr. Newberry had done during his service in the Navy, or as Secretary of the Navy. There was nothing much took place there. Mr. King did not say anything one way or the other. We talked over the situation for a while and I told him if I was satisfied Mr. Newberry would be fair toward labor, I would be willing to support him, and the conversation ended as near as I can remember with

that. I had not known Mr. King before, and I do not remember having met him during the campaign. He did not give me any literature at that time or any documents of any kind, or make any request of me of any kind. Mr. Allan Moore called to see me within a day or two after my return to Battle Creek. At that time my run was from Battle Creek to Port Huron, and I was then actively employed. My wages were $4.50 a hundred miles.

I lost about seventeen days' time as locomotive engineer. Mr. Moore told me that I would be reimbursed for the time I lost, and that my expenses were to be paid. During the 17 days I was engaged in the work, I was away from home most of the time. Besides the letter which was introduced in evidence, I wrote to Mr. Moore, and if I remember right, I wrote to Mr. King. I got a letter back from Mr. King after the election. I did not get any other letters from anybody else in connection with the campaign, except Mr. King or Mr. Newberry, that I remember of. I turned over my letters to Mr. Dailey or to the Department of Justice.

REDIRECT EXAMINATION BY MR. DAILEY:

The men that I went to see in these various towns belong to the same Legislative Committee with me. I had talked over doing that with Mr. Floyd and Mr. Moore. That is what I told them I would do, because I was not acquainted through the State at all, and I was acquainted with this Legislative Committee.

A. D. COLE, a witness sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Flint and am employed there by the Chevrolet Motor Company. I was formerly in the railroad business about fourteen months ago. I worked for the Grand Trunk as yardmaster. That is what I was doing in 1918. I met Allan K. Moore sometime during 1918. He came to me in the yards. I had some talk with him. He gave me some Newberry pamphlets at that time. I do not know just how many, probably 100. I distributed about 25 of them. He came to see me again in about one month and gave me $5.

H. E. MEYERS, a witness sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Flint, Michigan. I have lived in Michigan about seven years the last time. I will have lived in Flint, Michigan, three years the first of June. I am local agent for the Pere Marquette. That is what I was doing during the year 1918. In the early part of the primaries in 1918 I met Allen K. Moore. George Murray introduced him to me. I had known George Murray before. Mr. Moore had a talk with me at that time. I believe he asked me to do something with reference to the circulation of Newberry petitions. He said he had some petitions. I do not recall that he also asked me to do what I could in Newberry's behalf. I think he gave me three or four petitions at that time. They were distributed around at the different departments, signed up by those that wished to. I did not circulate any of them or obtain signatures. I do not recall that Mr. Moore gave me any literature at that time. I think I received some later on, which I distributed. I went around the city and distributed it myself, to and from my home and work. When I would go to work, I would take some at times, and when I would go from work home at times. Those were the pamphlets. When Mr. Moore gave me the Newberry petitions or whatever it was, he gave me no money. Later, when he was about to leave the office, he handed me some money. I do not recall how much; I think it was $40. Possibly it is $80, but I think it was the second time, on the second visit, he gave me another $40. He gave me money on two different occasions; $40 each time is the way I now recall. When these petitions that I had were signed, they were returned to me. I think I sent them to the Newberry Senatorial Headquarters at Detroit; I am not positive of that.

JAMES HICKEY, a witness sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Saginaw, Michigan. I am secretary of the Railway Men's Relief Association at Saginaw. I am a switchman for the P. M. Railway, and was doing that in 1918. I was an officer of the Railway Men's Relief Association in 1918. I knew George Murray then, but I had no acquaintance with Allen K. Moore prior to 1918. I met him in 1918—at my home the first time. I saw him on two different occasions. He had a letter of introduction from George Murray to me. The first time he told me he thought that I would be a good man for to assist him in lin-

ing up the railroad men for to help Truman Newberry being elected Senator. He said he wanted me to assist him pass out literature, signed petitions, etc. I believe he gave me some blank petitions to circulate. I had petitions; whether he left them that night or not, I could not say positively. I did circulate petitions and obtain signatures. After they were signed, I sent them to Mr. King's office in Detroit. I got instructions from Mr. Moore, as near as I can remember, for to send in the petitions that I received to Detroit, as it was getting along close to the time when they had to be in Lansing. They were Newberry petitions. Mr. Moore turned over nothing else to me except some cards and literature, which I distributed. I did not leave my work to distribute it; just around where I worked, I would meet somebody and would hand him a card, and at night after my work. I did not make special trips distributing them; just passed them out casually as I met a person. The second time Mr. Moore gave me $25. When he gave it to me, he asked me if that was sufficient. When he first met me, he said he would pay me. He says, "I will make it right with you for any expenses that you incur, and make it right for you for your trouble." The paper now shown me, marked Government Exhibit No. 104, is the letter of introduction that Mr. Moore handed to me at the time he met me. Referring to the other paper now shown me, marked Government Exhibit No. 105, I should judge it was just a few days previous to July 24th that I sent the Newberry petitions to Mr. King.

The two papers referred to by the witness were admitted in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 104

Our Motto: "Peace Love, Friendship and Security"
We are banded together for mutual protection.
Railwaymen's Relief Association of America
Supreme Division

Headquarters at Muskegon, Michigan.

Officers:
George R. Murray, President.
James Hickey, Vice President
W. F. Murray, Secretary.
A. Michelson, Treasurer
C. T. Eckerman, M. D.
Supreme Medical Examiner.

Muskegon, Michigan.
June 17, 1918

Mr. James Hickey, Supreme Vice-President,
Railwaymen's Relief Association of America,
Saginaw, Michigan.

Dear Sir: and Brother Hickey:

This letter will introduce to you Mr. A. K. Moore of Grand Rapids, a friend of mine to whom I have recommended you as the proper man to see and get acquainted with in Saginaw—asking him to secure your cooperation in his work of promoting a campaign for the purpose of placing the name of Truman H. Newberry before the voters of Michigan for the nomination for United States Senator.

Assuring you that it would be much appreciated—not only by myself but by Mr. Moore for anything that you can do to assist him in lining up the Railway employes at Saginaw.

I know Mr. Moore to be a gentleman and one worthy of any consideration that you may be able to give him.

Trusting that you can see your way clear to give him your support, I remain

Fraternally yours,
G. R. Murray.

GRM lc

GOVERNMENT EXHIBIT 105

Truman H. Newberry
For Republican Nomination for United States Senator
310 Ford Building
Detroit

State Committee
A. A. Templeton,
General Chairman
Paul H. King
Chairman Executive Committee

July 24th, 1918

Mr. Jas. N. Hickey,
1023 No. 7th St.
Saginaw, Michigan.

My dear Mr. Hickey:

I wish to acknowledge receipt of the fine petition which you forwarded for Truman H. Newberry for the United

States Senate, which you secured at the request of Mr. A. K. Moore, of Grand Rapids.

I am calling Commander Newberry's attention to your work and you will doubtless hear from him in due time.

With best wishes, I remain

Sincerely yours,

Paul H. King.

FRED KURTZ, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Boyne City, Michigan, going on eighteen years. I am a locomotive engineer for the Boyne City, Gaylord & Alpena Railroad. I laid over one night in Alpena and another night in Boyne City. I met Allan K. Moore, of Grand Rapids, during the spring of 1918, at Boyne City. At that time he delivered to me some papers. If I remember right, two of them was Newberry petitions and the others were little pamphlets. I got a few names to the petitions; not very many because I did not have the time. I had my own boy distribute these circulars. Mr. Moore did not give me any money at the time. Later he did through the mail. I would not say now just how much it was, but I guess it was $20, somewheres around there. I saw Moore the second time at the Wolverine Hotel in Boyne City, and had a little visit with him there. He then offered me more money. I could not say how much. I would not accept the second money. He wanted to know if I needed any more money, or some way like that; I could not just express it how he told me. I told him no, I had plenty, it was all right. I appreciated very much what he did give me, and that was all there was to it.

JOE LINDER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My name is Joe Linder. I have lived at Manistee seven years. At present I am shop foreman with the Manistee and Northeastern Railroad. In 1918 I worked as a machinist. Allan K. Moore called on me at the Manistee Iron Works in the spring of 1918 and presented a letter of introduction from George R. Murray of Muskegon. Mr. Moore requested me to circulate a petition for Mr. Newberry. I told him I would. I think he gave me two blank petitions, which I circulated. After I had some signatures on them, I think I got instructions to mail them to

Detroit to the Newberry headquarters at Detroit. I cannot recall the address. With the two blank petitions Mr. Moore gave me $10. I saw him again during the primary at Manistee. Mr. George Murray was with him that time. I was asked to distribute pamphlets which I did. I did not quit work to distribute them. I had some in my pocket, and now and then handed out one. Mr. Moore gave me $10 the second time I saw him. He did not give me the pamphlets on that occasion, they were sent to me. The $10 the first time I saw him and the $10 the second time I saw him was all the money that he gave me.

JOHN E. LAMBERTS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Battle Creek, Michigan, and was living there in 1918. I am in the railroad business—transportation department. I met George Murray of Muskegon once; it was in Battle Creek. He was in company with another gentleman whom I do not know; I do not remember. He was introduced to me, but I do not remember the name. They told me that they wanted me to circulate some petitions and asked me if I would do it for them. I told them I could not do it. I suggested that they get in touch with some of the switchmen, that perhaps they would do it for them. I believe I named Mr. Hutchinson. They left and went to the switch shanty. They came back to see me shortly after. There was no further conversation at that time except that they asked me if I would return the petitions to them after they had been signed. I said that I would, and I did. I am not positive where I sent the petitions after they were signed, but I believe it was Grand Rapids. I believe they gave me an addressed envelope. I know R. E. Allen. He came there with Mr. Moore at one time. I am not positive this was the same man who had been there with Murray, but I was introduced to the man as Mr. Moore. There was very little talk about the Newberry campaign at that time. During the conversation I believe that I told Mr. Moore that I had returned the petitions as they suggested. We talked a short while longer and Mr. Allen walked to the door, and he was looking out of the window, and Mr. Moore came over to me at my desk and put two $10 bills in my hand and told me to buy a cigar. I did not devote any time at all to the work for Mr. Newberry circulating petitions or literature.

CROSS-EXAMINATION BY MR. LITTLETON:

I accepted this $20 though I had done no work other than returning petitions. I intended to do no work.

SIMON VANDER MEULEN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Grand Rapids. During the summer of 1918, prior to August 27th, I was living in Grand Haven. At that time I was a tanner and president of the Tanners' Union. I left shortly afterwards and went to Muskegon, and then I came here to Grand Rapids. Afterwards I got three or four letters from the committee. I got one, I think, signed by Mr. Paul H. King, and later I got a letter, although I had not done anything, thanking me very much for the support I had given to Mr. Newberry. I have not got the letters. I destroyed them at the time. I got in all three or four letters, one urging me to attend a meeting and then I remember the last one I got here in Grand Rapids thanking me for the support I had given. The Democrats put me on the ticket, the same year, but I did not know anything about it at the time. I think that year it was for Court Commissioner. I ran on the ticket.

FRANK BELHART, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit. Before the Newberry Senatorial Headquarters were opened in the Ford Building, the defendant Zalie Clago and I had both been employed in the Sheriff's office and Clerk's office under Mr. Milton Oakman. In 1918 I was employed in the Clerk's office under Mr. Oakman. After the Newberry Senatorial Headquarters were opened, Mr. Clago told me he was working there. While he was in the headquarters he made arrangements with me to come over to the Headquarters for him with my automobile about 4 o'clock, after I got done working. I did so and drove him to a saloon on Livernois Avenue, about 3 or 4 miles from the Ford Building. That is the only place we went. I don't believe I brought him back to headquarters after I made this trip. I forget where I did take him. He got out of the automobile and went into the place. I was driving him an hour or so, two hours maybe. I think that is the only place we stopped. Mr. Clago paid me, I think, $10.

EARL FARMER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at East Jordan, Charlevoix County. I was living there in 1918. I was a railroad man at that time, employed as an engineer on the E. J. & S. road. I was not acquainted with Mr. Allan K. Moore until I met him at my home in East Jordan some time in 1918. I then had a conversation with him at that time with reference to the Newberry campaign. He gave me four or five petitions and asked me to circulate them. He gave me $25 and told me that that was for my expense, there would be expenses attached to that, he said. I did not circulate all of the petitions myself; I just handed them out to the boys. They would get others to sign them. I did not pay out any of the $25. When the boys handed the petitions back to me, I kept them. Mr. Moore come and got them afterwards. He did not say anything further about compensation, only handed me $15. He said that was for the good work I had done. Both these payments were made in currency.

CROSS-EXAMINATION BY MR. LITTLETON:

When Mr. Moore first came there, I told him I did not know nothing about this work, that I would do what I could for him, that I would do the best I could with the petitions; that I would give them to the foremen of the sections and have them do what they could. That I did. They got a name or two on some of them; on some they did not. When I had one, I asked them to sign it. I did not engage anybody to help me. The first time Mr. Moore was there, he handed me a package of those pamphlets, which I just handed out. I never got any by mail.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

I could not tell you how many names were obtained to these petitions. I do not know whether they was all full or not. I could not tell you how much literature was furnished; there was a little bundle about like that handed me (indicates). I did not take off any time from my employment to attend to these matters.

LOUIS FERINGA, being first duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR.EICHHORN:

I live at 1123 Fremont Avenue, Grand Rapids. In 1918 I

was Printing pressman with the West Michigan Printing Company, which was under charge of W. C. Rice at the time. I know Charles Nowrat, who was working in the same place. I am acquainted with George Welsh. Some time in the summer of 1918 I received word to go to the office of George Welsh. I did so, accompanied by Mr. Nowrat. I did not see Mr. Welsh at that time, or receive anything from him. Later I saw Mr. Welsh at the West Michigan Printing Company, and received $10 from him. In that connection he asked me to take out Newberry petitions. He did not furnish me any petitions. I had none at that time. I never took out any Newberry petitions.

CROSS-EXAMINATION BY MR. LITTLETON:

Mr. Welsh asked me to take out literature and he furnished me some which I circulated during the evenings at the Central Trade Council Hall, and also on the West Side, I also circulated some of Mr. Welsh's literature for his candidacy for Representative at the same time. That covered different days during the campaign, and different places.

RE-DIRECT EXAMINATION BY MR EICHHORN:

I did not stop off from my employment to circulate literature or lose any time from my work.

J. P. DELMORE, being first duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Flint, Michigan. I work there for the Dort Motor Car Company as an outside follow-up man for the Production Department. I was living in Flint in 1918. I knew William H. McKeighan of Flint and Fred Henry. One evening shortly before the primaries in 1918, I went in the store of Mr. McKeighan and saw Mr. Henry there. Homer W. Livingstone was there when Mr. Henry came in. Nothing unusual occurred after Mr. Henry came in, that I remember. He only just called Mr. McKeighan to one side. Mr. Henry, as near as I can recollect, went out and Mr. McKeighan stayed in back of the prescription counter. Then Mr. Henry came back again accompanied by the defendant, Richard Fletcher, a man I presume to be the defendant, Mr. Paul King, and a stranger. They went back of the prescription counter. Mr. McKeighan left me and also went back of the prescription counter. I heard them talking while they were there. I know Hugh Maddigan, of Flint. While these gentle-

men I have mentioned were in Mr. McKeighan's store, he (Maddigan) came in and sat down alongside of me.

ISAAC M. FREIBERG, being first duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit and am an attorney. I am also Deputy Sheriff of Wayne County. I was living in Detroit in 1918 and was practicing law; also associated with Arthur S. Hyman in the Dawn Master Plays Company. Our concern handled the film entitled "Our Navy" and distributed it to some of the picture houses in the State of Michigan. We received some money for the work done. I personally received payment on account of the matter. I received around $1,000 at the Ford Building, at the Newberry headquarters. I do not recall about when it was that I went there and received the money. It was not reported to and handled upon the books of our concern. I deposited it to my account.

CROSS-EXAMINATION BY MR. LITTLETON:

I had no instructions not to enter the payment of the $1,000 upon the books. There were reasons for it—reasons personal to me. I advanced money from time to time to the company, and in getting this money back, I took it to pay me back. This film called "Our Navy" was distributed gratuitously.

ARTHUR S. HYMAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is in Detroit. I was in the moving picture business in 1918 in Detroit. The name of our company at that time was The Dawn Master Play Company. I am now doing business under my own name. I had something to do with the distribution of the film known as "Our Navy" throughout the State of Michigan.

I talked with the defendant, Thomas Phillips, about the first of August, with reference to the distribution of that film, in the office of the Dawn Masterplay Company in the Owen Building. Mr. Phillips introduced himself, and stated he had a one reel subject that was very patriotic and very interesting and he inquired whether I had the facilities to handle it. I said, "That is my business, distributing films." And he said, "Are you in a position to give good and quick service?" I says, "Yes." He says, "What would be your price to distribute the films for Mich-

igan?" I stated the amount; it was something like $3,750; and he thought that I was very high, and left the office. That was all I know of that passed at the first visit there. I think I saw Mr. Phillips either the next day or the day following. At that time he said he had learned that we had the facilities of handling it better than anybody else, and he said he would like to have us distribute "Our Navy" to the theaters throughout Michigan. The films were delivered to the office; I don't think by Mr. Phillips; but the following day I think we got about 18 or 20 separate reels of "Our Navy." Later we received about three or four more copies, making about 22 or 23 in all.

I sent about six or seven of my men out through Michigan placing the reels in the different theatres throughout Michigan.

Q. How many picture houses were they shown in in Michigan through your Company?

MR. LITTLETON: That is objected to upon the grounds that the sole legitimate purpose of the inquiry is as to the expenditure of money for the distribution, not for the purpose of showing the number of places in which it was exhibited.

THE COURT: The objection will be overruled.

MR. LITTLETON: Exception.

A. I should say about two hundred and fifty.

THE WITNESS (continuing): The picture houses received no compensation for running the film, and we received no compensation from the picture house for the use of the films.

The compensation that we received, or were to receive, was arranged for by Mr. Phillips. I prepared the card and the advertising that was used in connection with the display of the film. After they were printed Mr. Phillips called in the office one day and I showed him the one-sheet form, and three-sheet I can't recall that I also showed him the cards we were sending out to the picture houses. Mr. Phillips said the advertising sheets were satisfactory. The paper now shown me, marked Gov. Exhibit 101, is a one-sheet form, and is one of the papers or bills. The sheets were printed by the Ashton Printing Company. The cost of the advertising was paid by me. Nothing was said about that at the time the contract was entered into between Mr. Phillips and myself, except that I was to exploit the films properly. At the time I began to distribute the films, I went over to the Newberry Headquarters in the Ford Building to see Mr. Phillips to get the advance payment, and he gave it to me. I believe the first amount was $1400 which was paid in money. I received a payment later at the same place I spoke of before. Mr. Phillips also paid me at that time. I think the amount he paid

me the second time was something like $2,000. It was made in currency by Mr. Phillips in person.

I know nothing about any payment that was made to the witness Freiberg. He was the Treasurer of our company, and I believe, during my absence out of the city, that he received payment. Mr. Freiberg had full charge of the books. The tin-pan affair now shown me is a copy of this film "Our Navy." The one sheet poster was a matter in my entire control.

MR. DAILEY here offered in evidence Government's Exhibit No. 101, as a part of the direct examination of the witness.

BY MR. LITTLETON: When I showed Mr. Phillips the one sheet advertisement, it had already been printed. I do not believe it had been sent out at that time. It just came in that day—was not even dry—the ink was not dry. I did not submit it to him as a proof. I intended to send it out. That was a matter in my entire control.

MR. LITTLETON: I object to the introduction of the proposed Exhibit 101, upon the grounds that although the testimony as to the expenditure of money for the film might not be objectionable, so far as any proof of whatever advertising the witness may have dictated or arranged for, and sent out over the State, would not be evidence against us, nor would it be material evidence of any issue in the case.

BY THE COURT:

Q. If I understand you rightly, this advertising matter that you sent out, including this poster or sheet, was done by you in pursuance of your arrangement with Mr. Phillips to exploit the film?

A. Yes, sir.

THE COURT: It will be received.

MR. LITTLETON: Exception.

Government's Exhibit No. 101 was here read to the Jury as follows:

GOVERNMENT EXHIBIT NO. 101

"EXTRA
ADDED ADDITION
O U R
N A V Y
Will be Shown
At this theatre
TODAY
REGULAR PRICES.
Wm. H. Ashton Printing Co.
Detroit."

THE WITNESS (continuing): The three-sheet is three times the size of the one-sheet. I mean I had posters three times as large as the one that the Jury has seen, with practically the same reading matter. Some of these one-sheet and three-sheets were sent out to the picture houses where they were to be displayed in advance, and some little bit later. Very little of the arrangement for the distribution of the film was done by correspondence. My men arranged to have it shown on certain days in certain theatres about the State. It was on display in the picture houses in Michigan for about 15 to 20 days. I believe the first one was on the 11th of August, and we closed, I believe, on the 23d of August.

CROSS-EXAMINATION BY MR. LITTLETON:

The statement "Added Attraction" and "Regular Prices" in Government Exhibit No. 101 means that if the threatre has a certain price for admission, and then, if they put on something extra, they raise the price of admission; but not going to any expense in this, they did not raise the price; they had the added attraction without any raise in the admission price. "Regular Prices" means in this case that the regular show, whatever it was, was so much, and this was simply added without additional cost to the price of going to see it. I do not know the total amount of money that was to be paid for this distribution. I tried to recall it, but I am unable to because I have nothing to do with the books whatever. There was no written contract. I think the amount was around $3,200 or $3,500. I am not sure about the figures of the two payments that I had, because I went over to collect it, and as soon as I collected it I turned it over to Mr. Freiberg. If I knew Mr. Freiberg had received himself a payment of $1,000 and I had received the first payment which I think was $1,400, that would be $2,400. I am unable to give any positive statement of how much I received on the last payment. At all events, I received as the last payment whatever was then due on the balance of the contract. The men I sent out especially on this film were on the road for me previous, but I took them off from the other work and put them specially on this work. I put them into the channels of distribution I already had.

GEORGE W. NIEPOTH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Detroit 38 years. I am an insurance solicitor

now. I have known the defendant Guy Ingalls for perhaps 4 years. During the primary campaign of 1918 he asked me if I would work for him. He was going to run for City Treasurer. I told him I would. He asked me if I would circulate petitions for Mr. Newberry for Senator, and I told him I would. He gave me possibly half a dozen blank petitions. To be truthful I could not say they were Newberry Senatorial Petitions, but I presume they were. That is what, in effect, he said to me. I circulated them, and obtained several hundred names. I secured these names just as I happened to meet or run across someone. Mr. Ingalls also asked me to circulate some literature—pamphlets—for Mr. Newberry, which I circulated in the same manner that I did the petitions, that is, I kept some of them in my pocket and now and then, if I met somebody, handed out some, excepting I left a few when I went into a store or a barber shop. Mr. Ingalls gave me some money, I couldn't say definitely whether more than $200 or not; it was that amount anyway. I couldn't say positively whether or not it was more than that; it was given me at different times. My best recollection is that it was about $200. I did not pay out any part of the $200 to have anything done. I retained it. Mr. Ingalls had not requested me to pay any of it out. He asked me to do this work for Mr. Newberry.

CROSS EXAMINATION BY MR. MURFIN:

I knew Mr. Ingalls was a candidate for City Treasurer. He and I knew each other quite well. I was selling a little insurance that summer, not very much. I could not say that the bulk of my time from the 1st of July until the Primary I put in on behalf of my friend Guy Ingalls and the campaign of Commander Newberry. The time I spent on behalf of Mr. Ingalls' candidacy for City Treasurer and the candidacy of Commander Newberry for the Senate was approximately an hour, or an hour and a half a day. I think I started very early in the campaign, and continued until within a short time before Primary day. I circulated Newberry petitions, but as to circulating Ingalls' petitions, I wouldn't say that I circulated Newberry literature and Ingalls' literature. I circulated Newberry cards, and I circulated Ingalls' cards. I do not remember turning into Mr. Ingalls every day, the names and addresses and the views of the men I had interviewed, but I do remember the giving in of petitions for Mr. Newberry. I also turned in to him a list of the names and addresses of the various citizens I interviewed. I would not say about how many of those

names I interviewed in behalf of Mr. Ingalls' candidacy or the candidacy of Commander Newberry. I could not say positively how many names I turned in, possibly a couple of hundred.

RE-DIRECT EXAMINATION BY MR. DAILEY:

I gave Mr. Ingalls a list of the men that I spoke to, and either had them sign their own name, or asked permission to sign their name on the petition. That is the only list I gave him. To my recollection the only written or verbal list that I handed to him at any time was this list of signers on petitions for Mr. Newberry.

RE-CROSS EXAMINATION BY MR. MURFIN:

I also gave to Mr. Ingalls from time to time a separate list, not of people who had signed the petitions, but of people I had interviewed. I will take that all back. Perhaps I did hand him a list of men that I spoke to, who were not on the petition of Mr. Newberry, some, if I remember correctly, I had written out myself, asking permission to put on the slip of paper. That was done sometime in the primary; I presume likely about the time I handed in the list of petitions. It was along that time anyway. So far as I can recall this was just one list. I could not say definitely how this money that I received from Mr. Ingalls was given to me. I met Mr. Ingalls several times. As to what the amount was each time I don't remember; I think one time $100 and then $50 or two $50's, or something, I don't remember just now. There were no other payments besides $200 and the two $50's that I recall. That was in cash each time.

BENJAMIN JONES, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Edwardsburg. I am a Presbyterian minister and was located at Edwardsburg in 1918. During that time I think I addressed a letter to Mr. Truman H. Newberry. I am not positive as to the dates. I think I received a reply to the letter I wrote. I could not swear to the date or anything of the kind. I wrote him a letter and I think I received a reply. The paper now shown me, marked Government Exhibit No. 111 looks very much like the letter I received in reply to the one I wrote to Mr. Truman H. Newberry. I could not swear to it myself, but it looks like it to me. I could not absolutely say that this letter was

the letter that I received. It might be copied, but I have not very much doubt about it. There might be a possibility that that would not be the same paper. It is difficult to say whether or not there is any doubt about it. I delivered a letter similar to that to a gentleman who called at the house within the last two weeks. I do not know his name. I understand that the letter I delivered was the one I received from Mr. Truman H. Newberry in reply to a letter that I wrote. That fact is, I am not very certain of a lot of things. I think the letter I delivered to Mr. Hobson was the letter that I received in reply to the letter I wrote to Mr. Newberry.

MR. DAILEY here offered the letter in evidence and the same was received and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 111.

Truman H. Newberry,

P. O. Box 908

New York City.

July 22, 1918.

Dear Sir:

I appreciate very much your friendly interest in my campaign, as shown in your letter of the 16th inst. And I am sure it will be most helpful.

In response to your request for a contribution to the church, I have directed my office in Detroit to subscribe for ten shares, making a total of $100, which I hope will help a little bit.

Sincerely yours,
Truman H. Newberry.

Rev. Benjamin Jones,
Edwardsburg, Mich.

CROSS-EXAMINATION BY MR. LITTLETON:

I had requested Mr. Newberry to contribute to the Presbyterian Church of Edwardsburg. I have been the pastor there now about nine years. I simply sent out blanks. The paper I now produce is the form of the blank which I sent to Mr. Newberry.

The paper produced by the witness was admitted in evidence and read to the jury as follows:

EDWARDSBURG PRESBYTERIAN CHURCH.

I, the undersigned, hereby agree to take ..... shares, value Ten Dollars each. Total amount subscribed ..... Dollars. Payable six months from date, toward the building of Manse and remodeling of the Church.

Total cost ten thousand dollars.

Date

Payable to Mrs. Addie Harwood,
Church Treasurer,
Edwardsburg, Michigan.

Name ..... Address ..... Amount.....

THE WITNESS (continuing): We were building the Manse. It was built at a cost of $4,500. I understood the Newberry family had long been identified with the Presbyterian Church of Detroit. I did not know very much about Mr. Newberry.

REV. F. J. PLASKOWSKI, being sworn as a witness on behalf of the Government, testified as follows.

DIRECT EXAMINATION BY MR. DAILEY:

My home at this time is in Ludington, Michigan. Before I went to Ludington, I was living in Cheboygan, Michigan, where I acted as Pastor of a church. During the latter part of June, 1918, a certain Mr. Reed called on me at the Parish; I don't know the initials; don't know the first name. He asked me what I thought about the candidates for Senator, and I told him I didn't give the matter very much thought, as the primaries were quite a ways away, and in fact that in my position I could not very well mingle into politics, and he told me that he was looking for a County Chairman, and I suggested Mr. H. E. Gleason, and Mr. John Rittenhouse, who lived in Cheboygan, as men who might suggest some man to act as County Chairman. He asked me if he could leave some Newberry literature with me and I said he could. He left about fifteen to twenty little pamphlets with me, and about ten Newberry leaflets. As he got up to leave my house, he says, "By the way, I see you have a car standing out there;" I says "Yes, I have;" and he started to hand me some money. And I says to him, "Well sir, you don't mean that as a bribe, or in any way to influence my vote, do you?" He said, "No, that is merely to buy a little gasoline for your car." Then he handed me some money in a roll, and when he left my house I looked at it and it was $25.

EDWARD F. PLUNKETT, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is in Muskegon. I have lived in Michigan all my life, and in Muskegon about 33 years. I am President of the Central Trades and Labor Council, and I held that position during the entire year of 1918. The third Friday in September, 1918, I met the defendant Christian Brock in the stairway of the Central Trades and Labor Council on North Terrace Street, pursuant to appointment. He had called me on the phone, saying he wanted to know if he could meet me before the regular meeting of the Council, which was scheduled for eight o'clock that evening. Mr. Brock asked me if he could go up and talk before the delegates for Mr. Newberry and the Republican Congressman running at that time, and I told him I didn't think it was well to do so at this time. I didn't think it was an opportune time until I had taken up the matter with the delegates. He asked me to take up the matters in regard to making a talk and if we would make up our minds to support Mr. Newberry. He mentioned the fact that the Trades Council of Grand Rapids had endorsed Mr. Newberry and he was led to believe that the Trades Councils throughout Michigan was making the endorsement. He asked me how soon I would let him know and I told him the next morning at 9 o'clock. The time was getting ready for the opening of the meeting and he started to leave. He got part way down the stairs and he turned around and he said, "We wouldn't expect you to devote your time for nothing; you will be amply paid for any work that you do." I refused him the floor. At this time he had not requested me to do anything else. I have no recollection that anything was said by him about the amount of the money, or the sufficiency of the amount, or anything of that kind. I met the defendant William B. Wilson, once in the office of the Railway Men's Relief in the Montgomery Block in Muskegon. It was in the fore part of September, 1918, as near as I can recollect. Mr. Frank Murray, Secretary of the organization, was the man who arranged the meeting. I believe Frank Murray is the son of George Murray. Mr. Wilson asked me "How do things look for Mr. Newberry in Muskegon County." I stated that I had not given it much consideration at this time and therefore would not be in any position to let him know at that time. He seemed somewhat persistent and wanted to know how soon I would be able to give him the answer. I told him I would first have to take it up

with the delegates of the Central Trades Council. He told me that I had been recommended to him by Christian A. Brock, and if I made up my mind and he did not see me before, to report to Mr. Brock for further instructions. He said there was plenty of money in the campaign and that I would be paid for anything that I did. They did not expect me to work for nothing. I believe the meeting with Mr. Wilson was on Tuesday of the same week I talked with the defendant Brock, but I am not positive.

CROSS EXAMINATION BY MR. CAMPBELL.

The conversation with Mr. Brock was during the election campaign and not the primary campaign. Mr. Brock's desire as expressed to me was to speak before the Trades & Labor Council in favor of the Republican nominees, mentioning the Senator, and the candidate for Congress, James McLaughlin. An endorsement by the Trades & Labor Council would necessarily have involved further labor on my part in the campaign, and I understood that what I was to be compensated for was the work that would devolve upon me after the endorsements.

CROSS EXAMINATION BY MR. LITTLETON:

I had not known Mr. Wilson before I met him in September, 1918. He did not tell me he was representing the State Central Republican Committee, not in those words; I didn't know that he was. He did not discuss the question of the Republican ticket candidates for Congress, and the various candidates. He possibly told me he would arrange to pay any legitimate expense I might have, or time I might lose, or words to that effect. I do not remember that I told him I was a Spanish-American War Veteran. I might have. I was as a matter of fact, yes, sir.

EDWARD FRENSDORF, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Hudson, Lenawee County, Michigan. I am a banker at Hudson. I am acquainted with the defendant, James W. Helme, and I met the defendant, William Mickel, on one occasion in 1918. I was then chairman of the Board of Control and Acting Warden of the Penitentiary at Jackson. Mr. Helme was Dairy & Food Commissioner. He came to the prison on numerous occasions. He and I lived in the same county. Mr.

Helme introduced me to Mr. Mickel at the Otsego Hotel in Hudson. The same day Mr. Helme, Mr. Mickel and myself had a conversation with reference to the candidacy of Mr. Helme for United States Senator. It began while we were riding together in an automobile, but this particular subject was not touched upon until we got up to the office of the prison. I already knew that Mr. Helme was a candidate for United States Senator. The purport of the conversation was this: that we lived in the same county, and always had been very good friends; and that it would be very natural for me to be for Mr. Helme, and I told him that I had participated in the nomination of Mr. Ford, and had urged his nomination; I believe signed his petition; and it would be impossible for me to do that, even though I desired. We had a general conversation as to the situation, and I asked who was back of him, and Mr. Mickel spoke up and said some very strong Democrats in the western part of the state. I told him that I was somewhat acquainted in the western part of the state, and possibly might know some of them, if he chose to name them. He did not name anyone, as I recall. I asked him at least twice to name somebody. Mr. Helme did not state the names of these men, or ask Mr. Mickel to tell me their names. I remarked that it was but a short time before the primary, and asked if he had a sufficient number of names on his petitions. I further remarked that I was over home at Hudson and the fellows over there had not seen any of Mr. Helme's petitions, and I had not seen any at Jackson; and Mr. Helme remarked that he had not seen any himself. Mr. Mickel says, "We will take care of all that." In some part of the conversation he spoke of a Bolo Club. If I recall, he said it was an organization made up of Spanish War Veterans, and I told him I never heard of such an organization. He says, "We have others back of this movement," but refrained from telling who they were. By that I mean that he did not tell me that they were actively at work for Mr. Helme. Mr. Helme said nothing on that point. I spoke to Mr. Helme about the publicity that he was receiving, and remarked that the source of it rather surprised me; and I mentioned the fact, a correspondent by the name Gurd Hayes had seen fit to give him very favorable mention; that heretofore Mr. Hayes had not been kind to Mr. Helme; and he remarked that Mr. Hayes had informed him that he could get all the publicity he desired. I says, "That is a rather peculiar situation." Mr. Mickel said either "They have all been fixed" or "That has been all fixed."

At the time of this conversation in my office, I was a candi-

date for the nomination for Governor on the Democratic ticket. I told these gentlemen that I had already participated in the promotion of Mr. Ford's candidacy. I do not remember telling them about meeting Mr. Connelley and some other gentlemen at Lansing for the purpose of discussing Mr. Ford's candidacy. It might have occurred, however, I had, as a matter of fact, met with Mr. Connelley and these gentlemen at Lansing at the conference of the State Central Committee. I had supported Mr. Ford in the Democratic primary. From his conversation, Mr. Mickel led me to believe that the Bolo Club was aiding and assisting in Mr. Helme's candidacy.

JOHN D. LESNAU, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit, Michigan, and was there in 1918, during the campaign preceding the primary. I was then Deputy County Clerk of Wayne County. Milton Oakman was the county clerk. During that campaign we had several meetings, as we called them, with reference to Mr. Oakman's campaign. I think Mr. Oakman was there at one meeting. I have no recollection of Mr. Oakman saying anything about Mr. Newberry as a candidate before the primary. I have no distinct recollection of any meeting of the employees held in the office before the primary at which Mr. Oakman said anything about the Newberry campaign. I saw some Newberry cards in the office and I had some myself. I do not think they were given to me by any one. I remember one meeting—I believe it was after the primaries though—at which Mr. Oakman said something about being interested in the entire Republican ticket from Mr. Newberry down to Mr. Farrell, who was our opponent. I made a statement yesterday to an agent of the Department of Justice in which I said that I was present at one meeting in the offices of the county clerk and was told by Mr. Oakman that he was interested in Mr. Newberry's election. That is what I had reference to when I said I heard Mr. Oakman say that he was interested in Mr. Newberry's election as well as the rest of the candidates on the Republican ticket. I think that is what I said a few moments ago. I believe that was after the primaries. I made a statement at an earlier time to agents of the Department, which I signed, and in which I said I was present from time to time at various gatherings or meetings in the offices of the County Clerk and we were told by Mr. Oakman or Mr. Smith

that they were interested in Mr. Newberry's election. To the best of my recollection, I would not say that that statement is not right. I do not remember whether at that time I told the agents that I was given cards to distribute for Mr. Newberry. I said when that statement was made that I was not sure whether Newberry literature was kept at the Clerk's office; there was some of Mr. Oakman's cards there, and there may have been some of Mr. Newberry's cards. I still say that now; I do not know. I may have said to the agents at that time that we had a stock room at the clerk's office and that Newberry literature was kept there. I do not know whether that was correct. I know there was some Oakman literature there, and I am not sure now there was not. I did not find Newberry literature there, that I can remember. I do not recollect exactly where I got the Newberry cards that I found in the office; they may have been on the desk. There was a great many of various candidates cards on the desk. I did get some of the Newberry cards and did distribute them. I did not do that at the request of Mr. Oakman. As I remember the exact instance, a gentleman came in and asked for me and asked if I could furnish him with some Newberry cards, and I told him then that I thought I could, and of course I responded to his request; and it was in that connection that I distributed them.

CROSS EXAMINATION BY MR. MURFIN.

Meetings of the deputies in County Clerk Oakman's Office were not unusual. I have known Mr. Milton Oakman, I should say, about four years. I did not know him very well until I came into the office. I knew he had been county auditor and that he had been very active in politics. A great many candidates had cards and literature around on the desk in the county clerk's office during this campaign. There never was a campaign when I was connected with the County Clerk's office under Milton Oakman that the county clerk's desk was not littered with Oakman literature. I am in the county clerk's office now.

CARL K. ANDERSON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I am the City Clerk of Escanaba and live, and was living, there and holding that position in 1918. Prior to the primary of that year, the defendant, H. R. Dotsch, called at the office and we got to discussing the subject of candidates for senator, and I ex-

pressed myself as being in favor of Mr. Newberry and he said, "Would you distribute some literature for Mr. Newberry favoring him for the nomination?" I said I would. He said, "If you will, I will pay you $10 for it." That was all that was said at that time, as I remember it. Later, I received a package of small pamphlets. The package was about three and one-half inches high, four and one-half inches high. I think it contained about 300 pamphlets. He did not give me anything at the time that he talked with me about distributing literature. This was early, before the campaign had really started. Possibly a week after our conversation, Mr. Dotsch paid me $10 in cash. I received no other money in connection with the Newberry campaign, either from him or anyone else. I subsequently received the paper now shown me, marked Government Exhibit No. 112, enclosed in the envelope marked Government Exhibit No. 112-A.

The papers referred to by the witness were admitted in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 112.

Truman H. Newberry, Detroit, Michigan.
New York City, November 16, 1918.

My dear Mr. Anderson:

I want you to know how much I appreciate your efforts in my behalf and for the entire ticket at the election, November 5th. The fight was a hard one, the situation most unusual and under all of the circumstances with which we had to contend, I feel that our success was really remarkable.

I am deeply grateful for the expression of confidence in me and shall do my best at all times to prove worthy of it.

With many thanks and every good wish, I remain,

Sincerely yours,

Truman H. Newberry.

Mr. Carl E. Anderson,
Escanaba, Michigan.

GOVERNMENT EXHIBIT NO. 112-A

Envelope post marked Hudson New York November 18, 11:30 A.M. 1918. Addressed to Mr. Carl E. Anderson, Escanaba, Michigan.

CROSS EXAMINATION BY MR. LITTLETON:

I have known Mr. Dotsch for quite a number of years. I was the City Clerk and he was City Attorney. His office was several blocks from the City Hall. I saw him almost daily in the City Hall. I distributed a good portion of the literature that was given to me to different places, and I handed some out to individuals that I met. In this conversation I told him, Mr. Dotsch, that I was for Newberry, expressed myself without him soliciting. I told him because of his being Secretary of the Navy under President Roosevelt's administration I thought he was sufficiently qualified to be Senator.

HENRY A. MONTGOMERY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit, Michigan. I am divorce proctor connected with the Prosecuting Attorney's office in Detroit. I have lived in Detroit about 9 or 10 years. Before I moved to Detroit, my home had been in Flint and Clio, Michigan. I was in the newspaper business in these cities, as I was in Detroit also when I was connected with the Detroit News. I am quite well acquainted with the defendant, Milton Oakman. I have known him ever since I have been in Detroit. In the primary campaign of 1918 I was interested in the candidacy of Mr. Osborn. Early in the campaign I had a talk with Milton Oakman with reference to his support of Mr. Osborn. The conversation took place one night at a party given for Johnny Smith, at Schiller Hall, who is his chief deputy and a particular friend of mine. Mr. Oakman said he would be with Mr. Osborn and Johnny Smith would be with him. Later I had another talk with Mr. Oakman in which he informed me that he did not intend to support Mr. Osborn, but intended to support Mr. Newberry. He said that he was very sorry that he could not be with Governor Osborn, that he was going with Mr. Newberry. I do not remember just exactly the words, but it was to the effect that he could not afford to be with Governor Osborn; he would have to be with Newberry because of the money there was in it. I had a subsequent conversation with him on that same subject, probably two or three weeks afterwards, in his office in the County Clerk's office. He said that he was going to be with Newberry on account of his brother Bob. Bob told him that he would have to be with him; that Newberry was the only one that had been a real friend of

his in their real estate crisis there in Detroit. Bob asked him to be with Newberry, and he would do anything for his brother Bob. He said, "Johnny Smith will be with Osborn; nobody could get him away from Chase." I had one conversation with him in which he asked me if I was getting paid well for being with Mr. Osborn. I told him I was not getting anything. He said I was foolish if I did not. He said that he was getting his, that he had got through—said something about he had come to a time in life when he had to look out for himself, something like that. He said, in substance, "I am getting well paid for what I do and you are a blank fool if you are not getting paid well for what you do." He said something one night about $20,000. I think his words were something like it was worth $20,000 that he had been promised and was to receive $20,000 for managing the Wayne County campaign for Mr. Newberry. I do not know whether that is just the exact words or not, but in substance that is what it was. Just a few weeks before election he said they had not done as they promised him. He told me at one time that he had not received a cent from them—that he had been promised it and had not received it. I think that was very close to the primary. I did not talk with him as to whether he had or had not received his money after that time. I think Mr. Milton Oakman told me who had employed Mr. Zalie Clago. I think he said that he had sent Zalie to headquarters, as I recall it.

CROSS EXAMINATION BY MR. MURFIN:

I quit working for the Detroit Evening News about two years ago last August. I have been divorce proctor one year. Prior to that time I was connected with the prosecuting attorney's office in Wayne County for perhaps a year or so. I was Mr. Osborn's Wayne County manager in his campaign for United States Senator. I think I was the first manager that any of the various Senatorial candidates had in Wayne County. When I first talked with Mr. Oakman and he said he would help support Osborn, I do not think there was anybody else in the field to support but Osborn. I knew Governor Osborn had frequently been a candidate for office. Milton Oakman was for him for Governor the first time he ran, several years ago. At a subsequent conversation, Mr. Oakman told me in his office that he could not support Governor Osborn and that he was going to support Commander Newberry because of something that his brother Robert Oakman had said to him. I knew that his brother, Robert Oakman, is a very extensive real estate operator

in Detroit. On that account, Milton Oakman said to me in his office, in substance and effect, that when the war crimped the real estate men, my brother Bob had to be carried over for a half million dollars, and it was the Union Trust Company, of which Truman Newberry was a member of the Executive Committee, that loaned him the money, and Bob told me to go sled length for the Commander. That was before there was any talk about money whatever. Johnny Smith told me first of the aid that the company which Commander Newberry was connected with had given Robert Oakman in time of need, and that was why Milton Oakman was supporting Commander Newberry. The first conversation I had with Milt was at this birthday party of Johnny Smith. During the conversation in the County Clerk's office Milton Oakman told me he was going to be with Newberry because of Bob Oakman explaining to him the aid from the Union Trust Company—that Bob had told Milt to go sled length for the Commander; but he told me after the Johnny Smith birthday party, and that is the first time he told me he was going to be for Newberry. At that birthday party he did not say he was supporting Commander Newberry at anybody's request. The birthday party was at the Schiller Hall before the state went dry. The conversation when Milton Oakman said to me, in effect, that he could not afford to support Osborn, was had at the Schiller Hall. When he said that, I did not understand that it was for political reasons that he could not afford to support Osborn. I took it the other way. When I had that conversation with Milton Oakman about the alleged $20,000, we were up in Mr. Wobroc's apartment in his hotel. It was after the state went dry. Besides myself and Milton Oakman, several people were there. Art Hathaway, a reporter for the Evening News, was one. I think Mr. Clago was in the room. I know Henry Wobroc was there. That is all I recall. It was simply in a very small room; it was in Wobroc's office up above. We had been there probably an hour before this remark was made. I do not think we had anything to drink. I refuse to state whether there was anything there to drink, or what I, or the rest of them had had, upon the ground that it might tend to incriminate me. The room was about probably 12 by 15 feet. It contained a table, writing desk, a couch, some chairs, and a bowl of gold-fish. We were there probably eleven o'clock in the evening. I do not remember whether it was early in the evening or late in the evening. Mr. Hathaway and I had been together all day. I guess probably we were with Mr. Wobroc, Milton Oakman, and Zalie Clago an hour. Before we went to

Henry's, we had been at the County Building. We were there at ten o'clock at night. Before then we were getting the returns of the primary election. I think this talk in Henry Wobroc's about the $20,000 was on the night of the primary election, August 27th. It was not an earlier talk; this was late in the campaign. I think it was the night of the primary election; that is the way I recall it. I do not know what fixes in my mind that this conversation was the night of the primary, that is my impression. I do not just remember what brought out the remark about $20,000 from Mr. Oakman. I have known Mr. Oakman politically for a number of years. I do not know whether or not he was serious when he made the remarks that he was to receive $20,000. I thought he was trying to square himself with me. He did not suggest his own brother Bob was giving him this. I think he wanted to explain why he was not with Osborn. I do not know whether he was just kidding me along; he might have been. He told me two or three different things about this connection with the campaign and I did not know when to take him seriously and when not to, as far as that is concerned. In other words, Milt is a great kidder; but I took it seriously enough so that I reported it to Mr. Osborn. He told me at one time that he had not got a cent out of it. I do not think Mr. Oakman, at any time during the progress of that campaign, ever told me that he had received one dollar. I think he told me on one occasion during the progress of the campaign that he had conducted his own campaign as county clerk, and the Newberry campaign, without any help from any one. I know Congressman Charles A. Nichols who represents the State in the 13th Congressional District. With reference to the talk about a federal job for Zalie Clago, I have a very indistinct recollection on that.

H. B. ZOET, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 745 Leonard Street, Northwest, Grand Rapids. I was a resident of Grand Rapids in 1918, at which time I was a salesman for the Consumers Power Company. I know the defendant George Welsh, of Grand Rapids. I had a conversation with him at the Pantlind Hotel, in the early part of the 1918 primary campaign. I took dinner with him at that time. After we had got through with our dinner, I asked him what his object was in having me up there, and talked over the campaign and

the Senatorship. He wanted to know where I stood, and I told him. He told me he wanted me to handle the old Sixth Ward, which is now the first five precincts of the First Ward, for the Newberry interests. He informed me that this was going to be a publicity campaign, in which all the daily papers and weekly papers throughout the state would carry advertisements in regard to Newberry. He said this was necessary on account of Mr. Newberry not being well known and well advertised. When we parted he shook hands with me, and placed a $10 bill in my hand. After that I met him at different occasions, in regard to this. About a month later than that he told me that he was going to pay me $100 for my services and any expenses that I might have, and he did so. I got it in currency at different times. The last of it I got a day or two previous to the primaries, on that occasion I got something like $20, if I remember correctly. Before that I had received all told, somewhere in the neighborhood, as near as I can recollect, about $160, making about $180 in all, as near as I can recall it. In putting that money to use I had some men there in that section distribute literature. I remember part of them; I paid Mr. Fenski $5; he is a laborer in a factory. I gave him literature to be distributed in the factory. I paid Bill English, a metal polisher working in another factory, $5, and I gave him some literature to be distributed in his factory. I gave some literature to a man by the name of Duffy. He worked at the American Seating Company, which employes a very large number of men. I gave him the literature to be distributed among the men at the plant, and paid him $7.50. I gave Charles Goudzward, foreman at the American Seating Company, in the steel plant, some literature to be distributed in his plant, and paid him $10. I asked Henry Zoet, who worked in a furniture factory where a number of people are employed, to distribute literature among the men that were around there, and gave him $7.50. I also paid out money for cigars and street car fares and incidental expenses. I used part of the cigars that I purchased myself, and when I would meet someone on the car, or something of that sort, I would get into conversation with them and give them a cigar. The cigars were not given out along with Newberry literature. I paid out $80 of the $180 to other persons. The $100 was retained for my own, personally. That was the understanding. I did not lose any time from my regular employment in what I did. I did all this evenings. I made no statement of expense to Mr. Welsh, or render any account to him for the money that he had given me. I was not asked to do so.

CROSS EXAMINATION BY MR. LITTLETON:

I sell electric appliances for the Consumers Power Company, through the city and in the suburbs. My work as a salesman took me about the city a great deal constantly. Before I had this first talk with Mr. Welsh I was already for Mr. Newberry. During the period that I was working in the campaign I gave my time very nearly every evening, spending my time most in my own section where I am very well known. I personally distributed literature there to a great extent—practically all the classes of literature that were gotten out, covering the first five precincts of the First Ward. If I was to the far west section of the ward I would take the car out in the district. I worked it out sort of systematically so that I was not jumping from one place to another. There were some sections that I did not touch; that is, where the Polish and Lithuanian people were because I couldn't talk with them. In addition to distributing the literature myself I employed these different men whose names I have given to make distribution of it in places where they were at work. I was engaged from an hour and a half to two hours and a half about every evening in the work over a period in the neighborhood of a month, possibly, or something like that. I continued up to the time of the Primary. I gave one little lunch at my house, which was attended by something like 12 or 14 people, and for which I paid out of that $100 of my own. The balance of that I accepted as compensation for the time I put in. I have always been active in local politics. During the primary campaign I also handled some of Mr. Welsh's literature personally.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

This lunch that I had at my house was before the primary. I had these men that I mentioned as the workers there, and I asked a few of the neighbors over, all voters, however. This meeting was held primarily in the interest of Mr. George Welsh. He was the only one that spoke at that meeting and I told him I thought it would be a good thing if he come over there and gave the boys a line of talk in regard to his own candidacy for the legislature. Newberry was mentioned at the meeting. The money was paid out of the $100 that Mr. Welsh had given me.

WILLARD C. SMITH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at 758 Fulton Street, West, Grand Rapids. I am em-

ployed by the Hart Mirror Plate Company, and was employed there in 1918. During the primaries of 1918 I was in and around Grand Rapids. I know the defendant Charles Carpenter. Previous to the primary, but during the primary campaign, I had a talk with him with reference to Mr. Newberry. He asked me if I would interest myself in the Newberry campaign, and I told him I didn't want to mix up in politics in any way at all, or words to that effect. During the course of that conversation, Mr. Carpenter gave me $10—I won't say that he did during the talk at that time. I informed him that night whether or not I would get mixed up and help him; I can't be sure whether he gave me the money at the time we were talking or directly afterwards. Besides the money, he gave me some Newberry buttons, I believe, and some literature to hand out. He told me to distribute the buttons. I do not believe he told me whether or not he wanted me to solicit votes for Mr. Newberry. I had a talk with him in which he told me that I would receive money in addition to the $10. This was at the time the $10 was paid to me. As near as I remember his words were to this effect: "Get busy and there will be more in sight." He said nothing to me at that time about purchasing cigars or sending them out to anybody. That was taken for granted. I would know enough to do that. I could not say that I did it. I probably did one or two; take them in and in order to get in a conversation with them, or something. After the primary I had another talk with Carpenter. He didn't mention George Welsh's name at that time. He asked: "Did you get that money?" No, he says, "Have you seen George?" I told him no. Of course I understood—he didn't mention Welsh's name in any way, but I understood that, everybody knew about that, and I told him "No, I hadn't." Then, he says, "Well," he says, "I will fix it up." He did not; I just got the one $10.

CROSS-EXAMINATION BY MR. LITTLETON:

I have known Mr. Welsh perhaps 23 years. I had no talk with him in this campaign, not a word. I heard no mention of his name except the reference to "George" that I have just narrated, except what I read in the papers. I heard no mention of his name in any conversation with Carpenter. When I was given the $10, more or less of what I was to do was taken for granted. I knew enough to get out and distribute these buttons and get votes if I could. I had some of these small pamphlets. I was indoors, engaged in my work at the time. I distributed literature and the buttons after work usually. I went around mostly in the Ninth Ward, that is south of Shawmut and west of the

river. That is my old ward. I have been active in politics for a number of years.

CHARLES J. WALSH, being produced as a witness on behalf of the Government and being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Flint. In 1918 I lived at 711 Veto Street, Grand Rapids. At that time I was employed at the Hayes Ionia Company as a clerk. I know the defendant Carpenter in this case. I had a conversation with him about the 10th to the 15th of August, in 1918, with reference to doing some work in the Newberry campaign. He asked me if I could get a Newberry petition filled for him, and furnished me a blank which I had filled out. Afterwards I returned it to Mr. Carpenter. When I got the petition Mr. Carpenter also gave me a quantity of buttons and cards. He said, "Distribute these at the shop amongst the boys." He also said we are allowed a little expense money for distributing buttons and cards. When I turned in the petition filled in, a few days afterwards, he paid me $15. After the first buttons had been given me I asked for more, I ran out of them, the first lot, they went like hot cakes. He asked me about how many buttons I had put out. I said in the neighborhood of a thousand. He asked me what I thought my services were worth. I thought they were worth a penny apiece to distribute them, it was worth that much for advertising purposes. It was then that he gave me the $15. I was on the election board at the general election, and the primaries.

FRED A. SOMMERFELD, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 700 Hurlburt Avenue, Detroit, Michigan. I was living in Detroit in 1918. I was deputy county clerk from the 1st of March, 1918, under Milton Oakman. During the early part of the primary campaign, there was a meeting of some of the office force with Mr. Oakman, at which, as near as I can remember, there was something said about several candidates, and among them I think Mr. Newberry's name was mentioned. I think that at the first meeting Mr. Oakman said that Mr. Newberry was a friend of his, and he would like to see us do what we could for him. There was some petitions there, and I took one of them. Mr. Oakman said he would like to have us circulate them. As near as I can remember, there was a meeting of most

of the deputies in the office a short time before the primary, after the time that I have mentioned. I do not remember of whom the gathering consisted, except that they were the deputies in the Clerk's office. Mr. Oakman was there. In a general way, he named several candidates for different offices, and said they were all good fellows, he did not like to mingle, but he would like to have us, if we could, do a little something for Mr. Newberry, he being a personal friend of his. I do not recall any other meeting before the primary.

FRANK C. DAVIS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I formerly lived in Detroit, I live in Ford now. I know the defendant Guy L. Ingalls quite well. During the primary campaign of 1918, Mr. Ingalls asked me if I would get some boys—or I could see to get some boys to distribute some literature for Mr. Newberry. I told him that I would. He gave me some money, I am not sure of the exact amount, but I think it was about $100 or $125, it is around there.

CROSS-EXAMINATION BY MR. MURFIN:

When I got this money from Mr. Ingalls, he was a candidate for office himself. He was running for City Treasurer. This money was given to me to distribute Newberry literature; that is, to have it distributed, as I understood. The literature was sent out to a certain address on Howard Street, I think 490, and I gave it to some of the boys that I had known to distribute it. I had some Ingalls literature with it, but I didn't distribute it at that time. This Newberry literature consisted of these little folders with the picture of the Commander and a story of his life, or something of that kind. I should think there were 5000 of them anyway. I oversaw the work; I saw that the boys distributed, that is all.

WILLIAM E. HINKS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at 208 Dickinson Avenue, Grand Rapids. I have lived in Grand Rapids for about 25 years. I circulated the petitions for the nomination of Mr. Newberry at the request of Mr. Welsh. I don't remember whether he gave them to me personally or not. I got them in the Commercial Savings Bank Building, at the

Newberry Senatorial Headquarters. Mr. Welsh was not in headquarters. I do not think he told me how much he would pay me for the circulation of petitions, I don't remember whether he told me he would pay me by the petition or by the name. I got at the rate of about five cents a name, which amounted to about $20. George Welsh paid me the $20. I think I got about 400 names all told on 7, 8 or 9 petitions.

HORACE TRUESDALE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Flint, Michigan, and am 24 years of age. Outside of being in the Army, I have been there in Flint since 1913. I went to the home of Fred Henry in Flint one evening in the campaign of 1918. A little while before the primary they had a meeting up there; must have been about forty or sixty from Flint the first time I was there. Hugh Maddigan invited me. He first fetched around a petition to be signed. I was at Mr. Henry's home right soon after the Primary; that is, I think it was after the primary; I do not just remember. Hugh Maddigan and two other gentlemen were there on the porch. Mr. Henry first fetches out a cigar, and we sat there smoking and went in to talk over the matter with them; I do not know just what it was. I went in after the other two had left. Mr. Henry and I were in there. At that time Mr. Henry gave me $5. He did not say what it was for; he just handed it to me. He made no request of me. He did not suggest that the $5 was a payment for any service I might render for Mr. Newberry, that I remember. I probably judged at the time what he was giving me the $5 for. Mr. Maddigan had asked me if I would pass out some cards at the primary. I did pass out, I should judge, 200 or 300—maybe not that many. I did not talk with Henry about that. I cannot recall anything he said to me at the time he gave me the $5.

WILLIAM P. BEARK, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Flint, Michigan. I am paymaster and employment manager of the Flint Motor Axle Company. That is the work I was doing in 1918. I met Fred Henry during the primary campaign of 1918. Hugh Maddigan introduced me to him, at his (Henry's) house, if I remember right. There were two or three

other parties present, but I do not recall the names. I am referring to a night when a number of us were sitting on the porch there. I had a private conversation with Mr. Henry that evening inside the house. These other men were out on the porch at the time. Mr. Henry asked me if it would be possible for me to distribute some literature in the Newberry campaign. I cannot say that he gave me any at that time. I cannot remember whether he did or whether Mr. Maddigan did later, but I received the literature. They were Newberry cards. There was quite a bunch of them. I was requested to distribute the cards on primary day. Mr. Henry made that request of me, I presume, as far as I know; I could not swear to that. That evening when Mr. Henry left the porch and went into the house when we had our talk he gave me $10. As far as I can remember the $10 was for the purpose of spending the time distributing the Newberry campaign cards.

FRED LEACH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I lived at Grandville in 1918. I live at Coopersville now. In 1918 I was conducting a barber shop in Grandville. I know the defendants George Rogers and George Welsh. They came to my barber shop in 1918 during the primaries, and left $8 with me, and asked me to get someone to distribute Newberry literature. They left probably one hundred or so small cards with me for the primary, nothing else. I paid out $6 to my father. Mr. Welsh told me to pay father for distributing the cards and he says, "Give the boys a cigar," and I did; and I kept the rest. George Rogers was there part of the time; he was out and in there. I would not say he was there during the time that Mr. Welsh had this conversation.

JOHN A. BAKER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit. At present I am an accountant now. Before that I was employed in the office of the County Clerk of Wayne County for about five years as Deputy County Clerk. I was Deputy County Clerk under Mr. Milton Oakman. During the primary campaign of 1918, I attended a meeting of the deputies in the County Clerk's office. All the office employees were there,

and Mr. Milton Oakman and Mr. John Smith, who was connected with the office, to the best of my recollection. The meeting was called to talk over the coming primary campaign for Mr. Oakman, and during the course of his remarks, Mr. Oakman mentioned the fact that he would like us to do what we could to help Mr. Newberry's campaign. To the best of my recollection, he said that he was interested in Mr. Newberry's campaign; in what capacity, he did not mention. I received a blank Newberry petition in the office. I saw other clerks in the office have them. One of these petitions was given me to circulate. I did circulate it, and when through with it, I laid it on Mr. Oakman's desk, to the best of my recollection.

CROSS-EXAMINATION BY MR. MURFIN:

The deputy county clerks had two or three meetings during that campaign, to the best of my knowledge. Mr. Oakman had a campaign on for re-election of his own that year. At this meeting nothing was said on the question of opposition at the campaign renominating Mr. Oakman against Tom Farrell, more than to say that they told them to go out and work in order to further Mr. Oakman's campaign. The question was discussed as to the best methods to be adopted. There were petitions for the nomination of Milton Oakman and for Walter Thayer, who was a candidate for Councilman.

GEORGE C. WALSH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit, and am Editor of the News Retailer. I know the defendant Guy Ingalls, and I knew him in 1918. During the primary of 1918 he delivered $100 to me, and requested me to do something in behalf of Mr. Newberry. I spent between $27 and $30 of the $100. I interviewed a number of men who worked for me, and I hired a man by the name of Peter Connors. I gave him $10, and asked him to distribute cards and buttons. I paid R. T. Duncan for automobile hire. I paid a janitor $3 for a public school house meeting. I had the handbills for the meeting printed at the Despatch Printing Company, at a cost of $7. I believe the name of the man who spoke at the meeting was Simons. It was a general political meeting in the primary. Other candidates for other offices were spoken for that night besides Mr. Newberry, and Mr. Newberry also. I retained the balance of the money Mr. Ingalls had given me.

CROSS-EXAMINATION BY MR. MURFIN:

During the primary campaign of 1918, I ran a small paper in Detroit as a side line. I carried advertisements in my paper for Mr. Ingalls during the campaign, urging his nomination to be City Treasurer, and all the work I did, whether for Ingalls or Newberry, was done in the primaries. In addition to arranging this meeting I turned in a list of 19 names of workers that I recommended to Mr. Ingalls as good men to work for him on primary day. I had nothing more to do with that except giving him the names of them to work for Ingalls on primary day. As to this meeting, three or four, maybe more, Republican candidates spoke. I do not recall the fact that the Simons who spoke was a candidate for a member of the Common Council under the new Detroit Charter. I know that David Simons, his father, was a candidate, but I don't know that I knew he was at that meeting. I remember that Hugh Shepherd, a candidate for Alderman or Councilman, was there, also William P. Bradley, a candidate for Council, who spoke for himself. This was a non partizan meeting. I am sure Bradley isn't a Republican. The fact is, as far as city offices, this was the first year Detroit had a non partisan ballot for city offices. Whatever I got from Mr. Ingalls covered whatever I did either in my paper or in other activities for him and for Mr. Newberry.

RE-DIRECT EXAMINATION BY MR. DAILEY:

I do not remember that I ever ran any advertising for Mr. Ingalls that I marked "advertising;" I have a fancy I did, but I don't remember. Besides myself, the printer was interested in this paper that I spoke of. I did not turn over any part of this $100 to the printer.

WALTER A. THAYER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit. In the primary of 1918, shortly after Mr. Newberry's candidacy was announced, Mr. Oakman said he would like to have me for Mr. Newberry. He said nothing to me about Mr. Newberry except that he was a Republican; that is about all.

ALBERT G. KUNZ, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR EICHHORN:

I live at 432 Baldwin Avenue, Detroit. I was a resident of Detroit in the summer of 1918. I am acquainted with Mr. Milton Oakman. In the spring of 1918 I was present at a little luncheon at Mr. Oakman's house. I should judge about twelve, possibly fifteen men were there. I got there between nine and ten o'clock. The men sat around and smoked, and we had a little lunch, and Mr. Oakman said that he would like to have the boys support Mr. Newberry. We talked on different things. Along about 10:30 Mrs. Oakman came in, and she was in the conversation. Prior to that time we had discussed campaign matters on different candidates.

RAY W. DAVIS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at the City of St. Joseph, Berrien County, Michigan. I was living there in the spring of 1918, prior to the primary. I was instrumental in arranging for a banquet of the Young Men's Republican Club in that neighborhood, which was given I should judge in August, a week or ten days before the primary. There were two speakers at the banquet that night; one was Mr. Reed, and the other might have been Mr. Welsh; I am not positive about his name, and I do not believe I know him. This was an organization of the young Republicans in the neighborhood. Before the banquet the defendant Albert Burger called me up and asked if a Newberry speaker could be there. I told him certainly. There were five or six speakers on the program. One of the candidates himself, Mr. Sterling, spoke. The meeting was not addressed on behalf of any of the candidates for United States Senator, except Mr. Newberry. Nobody else requested me to allow a speaker there except Mr. Burger. The banquet cost $138 and some odd cents. I think possibly $40 of that was paid by Mr. Burger. I am not positive whether he paid it over or not.

JOHN DE YOUNG, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Grand Rapids, and was living there in 1918 during the campaign preceding the primary. I am acquainted with

George Welsh. Before the primary of 1918 I had a conversation with him with reference to the Newberry candidacy. He requested me to distribute some literature. I was going to distribute literature anyhow, at the same time my brother was a candidate. Mr. Welsh requested me to distribute some Newberry literature; he said whatever the expense would come to he would take care of it. He paid no money to me and he gave me no money to pay to anybody else. I did distribute some Newberry literature, I had it done with some boys and myself. I paid the boys, but I did not report the expense to Mr. Welsh. I previously made a statement to some of the agents of the Department of Justice, and signed my name to it. The signature to the paper now shown me is mine. I have read the statement there, the last couple of paragraphs. That paper was placed in my hands before I signed it. I did not know what was in it when I signed it. It was read over to me yesterday by Mr. Matthews. After reading that I repeat that Mr. Welsh did not furnish me some money in connection with the Newberry campaign of 1918. I mean to say that what is stated there is not correct. I did not know when I signed it that it was not correct. I knew yesterday that it was not correct, and I had it corrected as to the payment of money. I did not say to the first agents that interviewed me, and to Mr. Matthews yesterday, that George Welsh had paid me twenty dollars to cover the expense of distributing literature. I said he agreed to pay me the expense, whatever the expense would come to. I did not say that he had furnished me twenty dollars and had promised me twenty for my profit. I was subpoenaed as a witness last week to appear on the 19th day of this month, which was yesterday. I have not talked with anyone about the fact that I was to be a witness or about what my evidence would be.

CROSS-EXAMINATION BY MR. LITTLETON:

My brother was running for representative in the election, and I helped him at that time. I should judge it was about three weeks ago that some agent of the Department of Justice came to see me for this statement that has been shown me. I called Mr. Matthews' attention yesterday to the correction I wanted made in this statement. It is right on there, the corrections. I corrected it as soon as I saw there was a mistake in it. I corrected it before the Grand Jury; when I was before the Grand Jury is when I corrected it. This statement had been taken before I went before the Grand Jury. I corrected it before the Grand Jury and also corrected it yesterday to Mr. Matthews.

JACOB J. BALL, being sworn as a witness, on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 1356 North College Avenue, Grand Rapids, Michigan. I am foreman, Wilmarth & Moorman Company. I was a resident of Grand Rapids in 1918. I know George Welsh, I would not say that I was employed by him in connection with the Newberry campaign in 1918. I was associated with him during the campaign. I was a candidate for County Auditor at the same time Mr. Welsh and I campaigned together, and with other candidates that were running on the same ticket. By that I mean we went about the county and in the city passing out my own cards. I circulated some Newberry cards possibly, I don't recall exactly doing it, but I think I did. I would say that I did. I wouldn't say that I was requested to do that. I had cards in the machine, and had taken them I suppose myself off from the table in the Newberry headquarters in Grand Rapids. Mr. Welsh was with me when I distributed Newberry cards. I remember several of the places where we went all about the county, particularly certain picnics, wherever I should happen to be myself circulating my own cards I might have dropped his's. During these trips Mr. Welsh was with me. He was also a candidate for office. He paid me some money. The first time he paid me $7.50 for automobile hire, I used my automobile going about the country. Another time he paid me $15, and then $20 more. He gave me this money after returning from some of these trips, and he said, "You have used your machine; what do you think it is worth going about the county this way?" "Well," I says, "Just make it so as to cover the actual expenses of it," and he says "What do you think it was?" "Why, I hadn't thought, George, $5 or $10." I think I said it in that way. He says "Here is $7.50, will that square it?" I says "Yes."

DAVID VANDER MEULEN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 230 Oakley Place, Northeast, Grand Rapids. I was a resident of Grand Rapids in 1918. I remember the primary campaign that was conducted for United States Senator. I was at the Newberry headquarters in Grand Rapids. I saw Floyd and Welsh there; them is the only two I can remember. I happened to run onto Welsh one day, and he asked me to go out

to a noonday meeting at the Grand Rapids Chair Company, at which he was going to make a speech for Newberry. I went with him, and distributed buttons and literature. After we got back down town Mr. Welsh paid me $5 in money.

Government Exhibits Nos. 18 to 30, inclusive, were here received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 18

TRUMAN H. NEWBERRY

For Republican nomination for United States Senator

310 Ford Bldg.
Detroit

STATE COMMITTEE

A. A. Templeton,
General Chairman,

Paul H. King,
Chairman Executive Comm.

Chas. A. Floyd,
Secretary,

H. A. Hopkins,
Director of Publicity.

April 8, 1918.

Hon. Gladstone Beatty, Sheriff—Van Buren County, Paw Paw, Michigan.

Dear Mr. Beatty:

This is the first time I have been in Detroit since meeting you with Lew Thompson. I have told Mr. King about the situation in Van Buren County and he is very much pleased with the arrangements we made.

I am enclosing a little preliminary information in connection with Mr. Newberry which will interest you.

As soon as the Liberty Loan Campaign is over, I will slip down to see you and take advantage of that invitation for dinner, that is providing you can fix it with Mrs. Beatty.

Very truly yours,
Chas. A. Floyd.

CAF-E
Enc.

Envelope postmarked Detroit Mich. Apr. 8, 1918. Senatorial Committee
310 Ford Building,
Detroit, Mich.

Addressed to

Hon. Gladstone Beatty, Sheriff
Van Buren County, Paw Paw, Michigan.

GOVERNMENT EXHIBIT NO. 19.

(Same Letter Head)

April 26, 1918.

Mr. Gladstone Beatty,
Paw Paw, Mich.

Dear Mr. Beatty:

In order to get in close touch with the local leaders in the campaign and to be of as much assistance as possible, we have opened an office in Grand Rapids located in rooms 407-9 in Commercial Savings Bank Building and as it is Mr. King's wish that I spend most of my time over in Western Michigan so as to be able to give you complete co-operation.

I am only sending this note as a memorandum so you will know where to address me. If you happen to be in town, I hope you will surely drop in.

Both phones will be installed and you will be advised as to the numbers.

We are nearly ready to start real active work as the Liberty Loan is going over in such fine shape that we will not be interfering by doing some detail organizing.

The Detroit office is getting up some cards and circulars together with other reading matter which we will send on to you as we are finding a demand for such information from all sides and you will no doubt find that many of the men who are willing to line up with you are anxious to know more about the candidate himself.

With kind personal regards and hoping to see you soon, I am,

Yours very truly,

Chas. A. Floyd.

CAF.LMc

Envelope postmarked at Grand Rapids, Mich. Apr. 27, 1918.
Senatorial Committee,
Truman H. Newberry,
310 Ford Building, Detroit, Mich.
Addressed to Mr. Gladstone Beatty,
Paw Paw, Mich.

GOVERNMENT EXHIBIT NO. 20.

(Same letterhead.)

May 7, 1918.

Mr. Gladstone Beatty,
Paw Paw, Mich.
My dear Mr. Beatty:

I have tried for the past two weeks to get over to see you but have had to jump around so much, it has been impossible. At the same time I feel so satisfied that you will have the County well taken care of that a trip over there is almost superfluous. It was more to have a visit with you and get better acquainted and also to take advantage of that dinner invitation.

In the very near future I expect to take an automobile trip and will drop off at Paw Paw.

Yours very truly,
Chas. A. Floyd.

CAF.LMC.
Envelope postmarked Grand Rapids, Mich. May 8, 1918.
Senatorial Committee—Truman H. Newberry, 310 Ford Building, Detroit, Mich.
Addressed to Mr. Gladstone Beatty,
Paw Paw, Michigan.

GOVERNMENT EXHIBIT NO. 21

(Same Letterhead.)

Will you kindly address to my Grand Rapids Office, 503 Commercial Savings Bank Bldg., Grand Rapids, Michigan.

June 3, 1918.

Mr. Gladstone Beatty,
Paw Paw, Mich.
Dear Sheriff:

We are going to make a trip through the southern part of the state, Paul King and myself this week. We

are planning now on arriving at Benton Harbor Thursday afternoon and spending the evening there, coming up to your County the next morning. I thought maybe you could get up a lunch at the hotel for some of your Van Buren County people Friday noon and if possible I would like very much to meet you at Benton Harbor Thursday afternoon and have you take dinner with the Berrien County boys Thursday evening at the House of David. There will be about fifty Berrien County gentlemen at this event.

I am trying to get you on the telephone to talk over some of the details with you. We go from Paw Paw to Allegan for a banquet Friday evening.

Yours very truly,

Chas. A. Floyd.

CAF.LMc.

GOVERNMENT EXHIBIT NO. 22

(Same Letterhead as Ex. 21)

June 1, 1918.

Mr. Gladstone Beatty,
Paw Paw, Mich.

Dear Sheriff:

I called to see you yesterday but unfortunately you were away. I had my family with me, we were driving through from Benton Harbor.

A. H. Burger who is looking after things in Berrien is anxious to meet you sometime and would very much appreciate seeing some of your friends around Watervliet, Coloma and up through there. After you have had a chance to do this, I would suggest that you either see him at Benton Harbor or call him on the telephone and tell him about it. He is manager of the Higman Packing Company but I think the operator will get him if you just call for A. H. Burger, Benton Harbor.

I hope everything is going good. We will have a trip through your county the latter part of this coming week or the first of the next with Paul King but I will advise you in plenty of time so you will be there.

I hope to have everything lined up in fine shape all through these western counties before he gets here. I think it would be a good thing to have a list of the men

you are depending on in the county so we can show it to him.

With kind regards, I am,

Yours very truly,
Chas. A. Floyd.

CAF.LMc.
P. S. I am dictating this letter just before leaving on the train for the northern part of the county and hope you will overlook having same signed as it is.
Dictated but not
read by Mr. Floyd.

GOVERNMENT EXHIBIT NO. 23

(Same Heading.)

June 3, 1918.

Mr. Gladstone Beatty,
Paw Paw, Mich.
Dear Sheriff:

If you can have your Secretary get up a list of say, 250 prominent Republicans in Van Buren, we will have a letter go to them and also send them marked copies of several magazines containing good write-ups of Mr. Newberry.

Yours very truly,
Chas. A. Floyd.

CAF.LMc.
Dictated but not
read by Mr. Floyd.

GOVERNMENT EXHIBIT NO. 24.

(Same Letterhead.)

June 10, 1918.

Mr. Gladstone Beatty,
Paw Paw, Mich.
Dead Glad:

You certainly took nice care of us in your county and I was glad you could go up to Allegan for the evening. We struck Grand Rapids about midnight, both very happy.

We had a fine big meeting in Grand Rapids the next day.

You boys certainly can do things splendidly in that county and I know you are putting your heart right into it.

I hope you will extend my thanks to Mrs. Beatty for her kindness and that you will believe me.

Most Sincerely,

Chas. A. Floyd.

CAF.I.Mc.

GOVERNMENT EXHIBIT NO. 24.

(Same Letterheading.)

June 20, 1918.

Mr. Gladstone Beatty,
Paw Paw, Mich.
Dear Sheriff:

The Detroit office is after me for petitions as they want to be circularizing just as soon as possible and I wonder if you will not be good enough to send in what petitions you have filled out at your early convenience so as to get this started. Some petitions are in now but the more they get down there the better shape they are in for the campaign which has been planned.

With kind regards, I am,

Your very truly,

Chas. A. Floyd.

CAF.I.Mc.

GOVERNMENT EXHIBIT NO. 25.

(Same Heading.)

June 24, 1918.

Hon. G. R. Beattie,
Paw Paw, Mich.
DEAR GLAD.

I have your note of the 21st and it was all right to send the petitions into Detroit and my letter was really a circular letter as I know you had sent in some.

No one in our organization is worrying about Van Buren County as we all have every confidence in what you can do. The only thing I am worrying about is that I cannot get down to see you for a visit. I hope it will be soon. You take such good care of your friends that it is hard to stay away.

With regards to Mrs. Beattie and yourself, I am

Yours truly,

Chas. A. Floyd.

CAF.I.Mc.

GOVERNMENT EXHIBIT NO. 26.

(Same Heading)

July 3, 1918.

Hon. Gladstone Beatty,
Paw Paw, Mich.
Dear Glad:

We received the bundle of petitions you sent in which are fine and are being sent on for acknowledgement from Commander Newberry.

From every indication, you have things going fine and if we can keep up this gait, we are going to land in big shape.

I have been wondering how Mr. Broughton is going to feel about the Newberry candidacy. I hope he will be with us, he may be able to do some good with matters coming up before the State Central Committee.

Yours very truly,
Chas. A. Floyd.

CAF.LMc.

GOVERNMENT EXHIBIT NO. 27.

TRUMAN H. NEWBERRY
For Republican Nomination for
United States Senator.
503 Commercial Savings Bank Building
Grand Rapids, Mich.

August 1, 1918.

Mr. Gladstone Beatty,
Paw Paw, Mich.
Dear Friend:

Will you kindly complete the list of precinct captains or Chairmen for your county and send the man's name for every township and ward in your county at once to this office so that we can complete our files here and also complete them at the Detroit office. It is our plan to have a complete record of our organization of every county in Michigan on file at our Detroit office and most of the counties have long ago submitted this list.

Kindly attend to this at your earliest possible convenience as it is important and we would like this information within the next few days.

Thanking you for giving this matter your personal attention, I am,

Sincerely yours,
C. A. Floyd, Secretary.

CAF/LMc.

GOVERNMENT EXHIBIT NO. 28.

TRUMAN H. NEWBERRY
for Republican Nomination for
United States Senator

503 Commercial Savings Bank Building,
Grand Rapids, Mich.

August 20, 1918.

Mr. Gladstone Beatty,
Paw Paw Michigan.
Dear Glad:

I thought long before this I would be down to see you again, but have been away over in the other parts of the State, and only back here for part of a day at a time.

Royal Decker was here, and told me you had everything going in good shape. One of our field men who works with the marine vote was in South Haven, and says you have it good over there.

I don't suppose you worry at all what Nate Simpson can do to scare people into voting for Osborn and boosting the Osborn game. Most of the Osborn people in the State are figuring that they are in wrong and wish that they occupied a position that you do in being an original Newberry man.

I will see you one of these days, and in the meantime be good.

Yours truly,

Chas. A. Floyd.

CAF:B.

GOVERNMENT EXHIBIT NO. 29.

TRUMAN H. NEWBERRY
For Republican Nomination for
United States Senator

503 Commercial Savings Bank Building
Grand Rapids, Mich.

August 22, 1918.

Mr. Gladstone Beatty,
Paw Paw, Mich.
Dear Glad:

As we are quite anxious to get reports as soon as possible after the close of the Primaries, I am wondering if you will not be good enough to organize for the purpose of getting reports from the various precincts on

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the United States Senatorship both Republican and Democratic and have some figures ready so you can make comparison and estimate as they come in.

We will have the office at Grand Rapids open all night and will be glad to have telephone messages from you from time to time as the reports come in. Of course I don't suppose you are going to stay up all night, but whatever you can get will be appreciated as we will compile your county together with the other counties in this section and report the same to Detroit. In case you do this just have the charges reversed.

Just call for the Newberry Headquarters on either 'phone. We will be glad at the same time to tell you reports of the other counties when you call in.

With kind regards, I am,

Very truly yours,

Chas. A. Floyd,
HM

GOVERNMENT EXHIBIT NO. 30.

TRUMAN H. NEWBERRY
For Republican Nomination for
United States Senator

503 Commercial Savings Bank Building
Grand Rapids, Mich.

August 28, 1918.

Mr. Gladstone Beatty,
Paw Paw, Michigan.
Dear Glad:

I am making up our reports for filing and would like to have a complete statement of the expenses in connection with the campaign. If possible, I would like to have these here by Saturday morning.

Will you be good enough to forward the same, and show as much as possible the amounts expended for postage, telephoning, distributing literature, canvassing the vote, automobile hire, traveling expense, etc.

Your organization certainly showed fine results, and all of your efforts are very much appreciated.

With kind regards, I am,

Yours very truly,

Chas. A.Floyd

CAF:S

(On slip of paper attached:)
I believe, from our last conversation, the total expenses from your county must be around $100.00 including Royal's expenses.

EUGENE DUFFY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Hartford, Michigan, which is in Van Buren County. I have been Marshal of the village since last April. I knew Gladstone Beattie in 1918, and saw him on the street in Hartford during the primary campaign. He delivered his and Buckley's and Newberry's cards to me at that time. He wanted to know if I was with him; I told him yes. He asked me to distribute those cards that he gave me and I did so. I then had the ice business there, and I ran a dray line and had a sprinkling line. Mr. Beattie paid me nothing then. Later he made two payments to me, $5 each time. He sent me the first $5 somewhere in the neighborhood of two or three weeks after this talk he had with me, and I received the second payment probably two or three weeks after that, maybe three weeks. Both payments were before the primary. At the time these cards were delivered to me Mr. Beattie told me he would make it right with me.

CROSS EXAMINATION BY MR. BARNARD:

He had all the cards there together, and he says, "You circulate these cards; I will make it right with you." In a way he asked me to support Mr. Newberry, I guess; I don't know. He told me to pass out the cards, and if I could pass them out conscientiously, why, that would be all right; or something to that effect. He talked mostly for himself for county clerk, and for Mr. Buckley for sheriff. In the first conversation he says, "How about Newberry?" I says, "Newberry isn't my candidate," and he gave me the cards. "Well," he says, "All right, you can pass out those cards conscientiously, all right, if you don't, all right." It was true that Newberry wasn't my candidate, and Mr. Beattie did not try to urge me then to support Mr. Newberry. He only gave me the cards, and also gave me his cards and Buckley's. He sent me a check for the first $5 by letter. In that letter he did not state that he was sending me that money to pay me for Newberry services.

JOHN P. McGINLEY, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Grand Rapids, where I am in the restaurant business. I have lived in Grand Rapids thirty years, and have been engaged in the restaurant business between eight and nine years. I have known the defendant Carpenter twenty-five years. In the primary campaign of 1918 I had a talk with Mr. Carpenter with reference to the Newberry campaign. That conversation occurred in my restaurant. At different times prior to this we used to talk over Newberry stuff, just talk a little politics is all. At the time I am talking about he came to my place and he gave me the petition to be signed, and asked me to have it filled out, and said "There will be a little piece of change in it for you." At that time he gave me $10. I did not carry the petition about. I just laid it on my cigar show case. Mr. Carpenter called for it later and took it away with him. At the time Mr. Carpenter told me to have that petition signed, he says: "If we land our man" there will be a little piece more for you." Mr. Carpenter was in every day. Very shortly after the primary he gave me a second $5. At that time I think he said "Well, we landed our man" or something like that. I received $15 altogether, $10 first, and $5 after.

CROSS EXAMINATION BY MR. LITTLETON:

Mr. Carpenter left some literature in my place—just some Newberry cards laid on the show case. At that time he was manufacturing cigars for himself. I had taken an interest in politics before and had known Mr. Carpenter in political life. I had never received any money from him. My restaurant was at that time very largely patronized by the railroad men. I believe he left just the one petition with me. During the time of the primary I had the literature of other candidates on the Republican ticket there for other offices. There was different candidates come in and laid their cards there. Mr. Carpenter knew I was a Newberry man before he gave me these cards or this petition to fill out. He came in my place daily, and we had talked the matter over.

CHARLES GRUNDY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Grand Rapids. I work for Keifert down at the tannery. In the spring of 1918 I was tending bar at Ted Findley's. I still worked at that place after it became a soft drink parlor.

I know the defendant Charles Carpenter. During the Newberry campaign in the primary of 1918 Charlie Carpenter gave me $10 in connection with the primary. He gave it to me in Ted Finley's. I was behind the bar. We went in the side room—got two rooms there—and he gave me the $10. He never promised me anything, and he didn't say anything about it or about my receiving any further money.

MR. LITTLETON. I move that all of the testimony of the witness be stricken out as not being connected with or binding upon Mr. Carpenter or any other respondent.

THE COURT. That application will be denied.

MR. LITTLETON. I take an exception.

JOHN KORTEN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Grand Rapids, Michigan, at 47 South Lexington. I am acquainted with the defendant Charles Carpenter. During the primary campaign of 1918, just as I was waiting for a car, I had some little talk with Mr. Carpenter with reference to the Newberry campaign. He told me that he was out for Newberry and he wanted me to do some work for him. My car come along and I says: "Well here comes my car." And he handed me $5 and says: "I will see you again." He did not see me again, and he did not ask me to do anything further than the request he made at the time he gave me the $5.

CROSS EXAMINATION BY MR. LITTLETON:

I am a Constable, and I was a constable at the time. I know Mr. Carpenter very well. I had known him probably 30 years, 35. I had not been in political campaigns with him before personally. I had been somewhat active in politics. I did not tell him who I was for, for Senator; I had not taken sides in the Senatorial fight at that time. I am pretty sure I was not then a candidate. I did not see Mr. Carpenter again during the campaign. I did not go to the Newberry headquarters, or communicate with Mr. Carpenter any more. I did not advocate the election of Mr. Newberry amongst my friends.

ELMER E. FALES, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Belding, Ionia County, and am Mayor of the city.

This is my fourth term. I know J. Clyde Watt, of Ionia. Prior to the primary in 1918 Mr. Watt and Mr. Colwell came in my office and wanted to know what the Senatorial situation was. That was the way the conversation started. We talked it over. Mr. Watt said we would have to do some advertising, and wanted to know if I could do that advertising and circulate petitions for Mr. Newberry and also distribute literature getting him before the people. He did not leave any petitions with me at that time. He sent them afterwards. He left nothing with me that day, but he said that he could pay the legitimate expenses for doing this advertising, and wanted to know what I thought it would cost. I told him about $50, and afterwards he brought me a draft for $50. I don't remember whether it was New York draft or Detroit. I didn't see him when he brought the $50. I think he was there about the first of July, and then a few days after that I was away from home and when I came home some literature and the letter with the draft in laid on my desk. I had not circulated any Newberry petitions before those were left there. I circulated them after he had paid me the money. I circulated what was circulated in Belding. There were the three wards, I don't remember whether we had more than one in a ward or not. I wouldn't say accurately how many names I got there, perhaps a couple of hundred; I didn't pay any attention to that. A couple of packages of this literature was left which I took and distributed around the city of Belding and the township of Otisco. I probably spent a couple of weeks with it and the petitions. I had to drive the township of Otisco; I would say I drove four or five days. Whatever time I distributed literature was off from my business. I was not driving patrons on these trips that I took literature out. Out of this $50 I paid $5 to a man by the name of Barker, who handed out literature on election day away from the polls in the city.

CROSS EXAMINATION BY MR. LITTLETON:

I mean primary election day I was for Mr. Newberry before Mr. Watt and Mr. Colwell came to see me. I had already announced myself. In the conversation I had with Mr. Watt and Mr. Colwell they wanted to know about Mr. Newberry, and I said I was certainly for Mr. Newberry. Mr. Newberry was a personal friend of a brother of mine and I considered him a A No. 1 man and a 100 percent American. That is what I told them.

PEARL A. WYNNE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I now live at Saginaw. In 1918 I was living in Flint. I was then working the Buick factory. I am acquainted with Fred A. Henry, and I know a Mr. Bottsford living in Flint. I was at a gathering at the home of Mr. Bottsford in the summer of 1918. Mr. Henry was present at that time. I did not know all of those who were there from outside of the town. I just knew a few. I met Mr. Paul King that night. I believe Claude Stoddard, State Representative, was there with him. Richard Fletcher was there. Nothing was said to me that night by Mr. Henry or Mr. King about doing any work for Mr. Newberry in the campaign. I do not believe there had been before that by either of them. I was working for the cause of Newberry before I knew Henry. Mr. Henry asked me to do what I could for him. I do not just remember when that was. I could not say whether it was before or after this Bottsford meeting. I had seen Mr. Henry once before that meeting. I believe I had discussed political matters with him at that time. Mr. Henry gave me Newberry cards to be used, just before the primaries. Nothing was said to me by Mr. Henry at any time before the primaries about paying me, any more than he told me to go ahead and do what I could and he would see that I did not lose anything by it. I did go ahead and worked for the whole county ticket. There was a county ticket running at that time. I would not be sure that this was before the primaries—before the ticket was made. The meeting at the Bottsford home, when Mr. King was there, might have been before the primaries. I do not recall it. I continued in my work at the plant during the campaign, and the work that I did for Mr. Newberry was done outside of my regular hours, except that I was off a half day or a day on election day. I would not just recall when I saw Henry with reference to compensation or pay for what I had done, but I believe it was after election. I saw him at his home and he paid me $50.

CROSS-EXAMINATION BY MR. LITTLETON:

I was interested in both the general and the primary election. It was before the primary election that I talked with Mr. Henry in regard to the circulation of any literature. I believe I told him at that time that I was a Newberry man and had been a

Newberry man. As a matter of fact, I had been. I knew that Dr. Stewart was running, and that Claude Stoddard was running against him. I believe I circulated literature for Mr. Stoddard before the primary. I cannot say that I remember any other candidate who was running in the primary election whose literature I circulated. I worked for the whole Republican ticket. I was employed in the Buick automobile works. This work that I did for Mr. Newberry prior to the primary election covered some weeks. It might have been a week or two weeks, I could not say. I distributed the cards at stores and in wash rooms of the factory where I worked. I stuck them up in places where they would allow me to put them about the town of Flint. I did that in the evening after my regular work in the factory. I could not say this meeting at Bottsford's house was with reference to the day on which the primary election was held. I have no idea how long it was before the primary election. I did not make any notes of it. Maybe 20 or 30 were present; I did not count them, but there was quite a crowd. I understood it to be a general meeting for all candidtaes interested in the Republican ticket. I thought it was in reference to the candidates besides Mr. Newberry. Mr. Stoddard was a candidate and Homer Vette was a candidate for alderman. Mr. Henry told me that if I would do this work that I would not lose anything. I do not remember when he said that with reference to primary day. He paid me the money some time after the November election. I have no distinct recollection as to whether the payment made to me by Mr. Henry was after the primary election, or after the general election, but it runs in my mind it was after the general election. After the primary election, I did all the work I could for the general Republican ticket. I do not believe Mr. Henry was identified with the Republican County Committee. I used to meet with the men in charge of the Republican County Committee in the Busch Block three times a week. Those were meetings of the Republican County Club or Committee, of which I was a member, and I met there my brother committeemen from time to time during the period before the general election. I never saw Mr. Henry there but once—a few minutes before we opened up. We had literature there for all the candidates, and I helped in its distribution. I conferred with the committeemen with reference to the progress of the campaign, and I was active in support of the entire Republican ticket after the primary. I got men in the Second Ward to distribute literature, and I paid out all this $50 for the work they did.

REDIRECT EXAMINATION BY MR. EICHHORN:

I had a man at each precinct distributing Mr. Newberry's cards.

JOHN VANDER PLOUGH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Decatur, Van Buren County, Michigan. I have lived in Van Buren County twenty-seven years. I am twenty-seven years old. Decatur is ten miles southwest of Paw Paw. In 1918 I was and still am engaged in the grocery business. I knew the defendant Gladstone Beattie at that time. I saw him during the primary campaign of 1918, at my grocery store. If I remember right he left a few cards laying on my counter. I think they were Newberry cards, and also some of his own. He requested me to work for him. I don't believe he said anything about the Newberry cards; he gave me $20 at the time. There must have been somebody else in the front end of the store at the time Mr. Beattie came in; this happened in the back end of the store in another room, after he put the cards down on the counter, if I remember right. Nobody was in the back room except Mr. Beattie and myself. It was in this back room that he gave me the $20. I had quite a few of his own cards, and if I remember right there was a few Newberry cards left on my counter. All he requested me to do besides leaving the cards there, was to work for him. He told me to distribute some of his cards amongst the Holland people there, that was about all.

HENRY ACKER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Kalamazoo, Michigan. I have lived there about 14 years. I am a retired merchant at present, not doing anything. I was formerly engaged as a merchant in Kalamazoo. I know the defendant Elmer E. Smith in this case. I guess he moved up in my neighborhood just about a couple of years ago. I knew him during the primary campaign of 1918. He is with the Yeoman Lodge. A couple of months before the 1918 primary I had a talk with him with reference to the Newberry campaign. The conversation occurred in front of Mr. Smith's residence. He says "Hello, Henry, I just returned from Detroit."

This was on Monday. And he said he never saw so much money on the table at one time in all his life as there was on McKee's table yesterday, that was Sunday. "Money" I says? "Yes, Newberry money"; he says, "That is what I am repairing my house on now." He was having repairs done to the outside of his house. He says "Are you going to vote for Newberry?" I says, "No, I am no politician." He said, "You might as well get into the game; there's $25 a week in it for you, and you are doing nothing." He told me what I was to do for the $25 a week. I was to go and see my friends, that is all that was necessary, that I had some influence he knew. I told him I would consider it. Afterwards I told him I thought I would not accept it. In that conversation he told me he was sent for by Mr. McKee to go to Detroit. I knew at that time that Mr. Smith was connected with the Yeomen, but I did not know that Mr. McKee was until later.

CROSS EXAMINATION BY MR. LITTLETON:

My business in Kalamazoo was millinery and hair. I was in that business about 14 years in Kalamazoo. Before that I was about a year in the barber and candy business in Detroit. Before that I was in business in my wife's home, a small town near Lansing, named Williamston. My business there was in the barber business and cigar, just the same as I was in Detroit. I was in business there somewheres about eight or nine years. I retired from business about two and one-half years ago; it was in November 1917. I continued to live at Kalamazoo after I retired. Since November 1917, I have done nothing to speak of, no, sir, I have a flat there, been working on that, an apartment house, that is all. I think Mr. Smith moved into our neighborhood about two years ago. I met him, well, about two years ago. I don't just recall when, the first time I ever met him. This is February 1920, the campaign was in 1918. Well I can't recall the first time I ever met Mr. Smith. He come to see me first—I couldn't tell the date—about being an agent for the Yeoman Lodge; he was appointed agent. I could not tell how long it was before the date of this conversation that I have just told Mr. Dailey about. I wouldn't attempt to say. The time he came to see me about being an agent was not the first time I had ever seen him. I could not say as I told you before when was the first time, or where was the first time I met him. I didn't think it was necessary to keep tab on it, so I don't know. It was after I had retired from the mercantile business, which was in November, 1917. It would be an impossibility for me to tell you how many times I had met Mr. Smith from the first time that I met him, which was after

November, 1917, up until the spring when I say I had this conversation that Mr. Dailey asked me about. I had seen him and talked with him off and on, perhaps once or twice a week. I would just pass him as a friend, that is all. I never saw him any particular place only as I would meet him on the street. I do not know when Mr. Smith began the repairs on his house. He was repairing it at the time I had this conversation I don't know how long before the repairs had been going on. I live right across the street. I had been over there every day to where he was repairing his house. I had been suggesting to him how he should repair his house, telling him how it could be done, giving him ideas about it. I do not know how long I had been doing that before this conversation occurred with reference to Detroit, whether a week, a month, two months, a day, I have not any idea. I do not know to what extent he had made his repairs on his house at the time this conversation took place. He may have had it nicely under way, and he might have just started it, I can't recall it. If I should tell you it was a third done it might be a good thing, but that is not my recollection. If it was a third done he was really all—well, I couldn't tell; perhaps it was a third done, I would say; I would say that. I had made suggestions to Mr. Smith about the best way to make repairs; different things. I had been over there almost daily. I did not know Mr. Smith went to Detroit about two or three times a week right along in connection with Yeoman work he was doing—not two or three times a week. I knew he frequently went to Detroit before that; once in a while he went to Detroit before that. The day I met him was Monday and he said, "I just returned from Detroit." He had his bag in his hand. I met him when I was going downtown, I would say perhaps about 2 o'clock; 1:30 or 1 o'clock in the afternoon, it was somewhere along there. He told me he had been in Detroit on Sunday, the day before, went there Saturday; he told me he never saw so much money as he did on McKee's table on Sunday, and he said to me "That is what I am repairing my house with now," some money that he got from Detroit. I know Mr. Gordon Stewart, he is an attorney in Kalamazoo. He is a Democrat, that is all I know. I do not know that he was Chairman of the Democratic County Committee. Mr. Smith told me that Monday morning that he was paid for the repairs of his house out of the money that he had gotten in Detroit. He did not say he had gotten the money on that trip; I didn't ask him. He said he got the money to do the repairing on his house from Mr. McKee. He had never before talked with me about

money that he got from Mr. McKee. I do not think he had ever talked to me about paying for repairs on his house before this day; perhaps he might have. I don't know as I really understood him just at that time to say that he had gotten the money on that particular trip to Detroit with which to pay for the repairs on his house, but that is what he told me; that is all. I didn't take it into consideration, as far as that is concerned. I might have talked to Mr. Gordon Stewart at that time about the political situation; I might have talked to two or three people; never went to see him personally in regards to it. I had not said to Mr. Smith before the Monday to which I have referred, "Gordon Stewart tells me there is a lot of Newberry money out here," and I did not say it at that time. Mr. Smith did not say where McKee's office was. I didn't ask him. He did not say in what shape the money was on Mr. McKee's table. I never asked him. I did not ask him how much money was on McKee's table. Oh, I might have asked him something when he said that, but I don't remember that I did. I remember expressing an interest in what he was talking about, but as for telling what he said, and what I said, I couldn't do it. What I have told you is about all I can recollect. I knew Mr. Smith and Mr. McKee had been working together for months in a fraternal order. Mr. Smith said, when he got through with the repairs on his house, it amounted to somewhere in the neighborhood of $1300 or $1400 he thought. He told me that after it was finished. I don't know when it was finished. I don't know when I first told anyone about Mr. Smith's saying to me on this Monday that he had been in Detroit on Sunday and never saw so much money in his life as he saw on Mr. McKee's table. I might have told it to Mrs. Acker; I don't know of anybody else I mentioned it to. I don't think I told it around Kalamazoo. I don't remember whether I did or not. I did not tell it during the primary campaign. I took no interest in the primary campaign. I did not tell anybody prior to the primary election about this statement I say Mr. Smith made to me. I might have before the general election; I don't know. I do not remember to have done so. I say, as I said before, I might have told it to Mrs. Acker. I might have told somebody else about it, but I do not recollect. I might have told it sometime after, but I do not remember now when I first made this statement of what Mr. Smith said to me, to anyone else. I said I might have told someone else; I couldn't tell you. I might have made a statement to the government agents, that is my best recollection about it. I learned afterwards that a government agent came to see me. I do not re-

member his name, and I do not know when he came. I don't know nothing about it.

PETER T. BRADY, one of the defendants named in the indictment, but who had entered a plea of nolo contendere, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

At present I am living at 219 Ottawa Avenue, Grand Rapids. I have been here since last October. Prior to that time I lived in Cross Village, Emmet County, Michigan. I served as a member of the primary election board in that village in 1918. I also served in the general election. Prior to the primary election I had a talk with the defendant Will Darling about the fact that I was going to serve on the board. There was nothing said between him and me about the board at that time—the primary board—he wanted me to help him get Newberry nominated in the primary. He said it amounted to quite a little to him if he did. He was figuring on getting a job out of it if Newberry was elected. That is about all that I remember that amounts to anything. He did not ask me to do anything among the Indians at that time, except that he asked me who he could get to work the Indians, and I referred him to a fellow by the name of Charley Warren. On primary day I saw Mr. Darling in the town hall where the election was held. He was in and out there all day until along in the evening sometime. He lives at Harbor Springs, about 16 miles away. He did not stay there until the polls closed. He went home in time to vote. I saw this man Charles Warren that I had recommended, there that day with Mr. Darling. I also saw Henry Sullivan, but don't know whether he was working or not. I did not see him working with Mr. Darling. He was running a *Ford car*. There were Newberry posters around the walls on primary day at the time of voting. I did not see anybody put them up. I guess they were up before I got there in the morning. They were in the voting room. They were there at the time that I saw Darling in there on primary day. They were there all day. The evening before the election I had another talk with Darling; I don't remember whether he came to my house or to my shop, but he was in either one place or the other in Cross Village. He wanted me to help him work for Newberry again. I told him I couldn't then; it was all right in the primary, but I couldn't vote for him in the election. He didn't say anything about money at the time, but he said he would make it all right for me if I did. He did not give

me anything then, but he did later. I served as a member of the election board the next day, and saw Mr. Darling around the polls on that occasion. He was in town all night and was there the morning when the polls opened. I saw him part of the afternoon, but not after the polls closed that night. I met him on the street the night before and he gave me a $10 bill. This might have been two or three or four hours after he told me he wanted me to help him for Newberry the next day. I served on the election board as election inspector, and I served in the same capacity in the primaries.

CROSS-EXAMINATION BY MR. LITTLETON:

I have told my entire connection with the campaign in my testimony here. I am one of the men who was indicted.

HARRY E. CORCORAN, being sworn as a witness on behalf of the government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 610 Atwood Street, Flint, Michigan. I am general floorman, Chevrolet Motor Company. I have lived at Flint for the past 13 years. I know the defendant, Fred Henry. I saw him before the primary of 1918. He left some nominating petitions there for me to get filled out on behalf of Truman H. Newberry. I was not at home when he left the petitions there, and he left a note in a sealed envelope. I imagine it was destroyed. In it Mr. Henry asked me to have the petitions filled out, and that he wanted them by Monday. He says, "Harry, you do that, and I will make it right with you," or words to that effect. The petitions were left with me on a Saturday afternoon. I filled out two of them, and possibly some on the third one on Sunday, and delivered them to Mr. Henry on a Monday morning. When I turned them over to him, he gave me a couple of cigars wrapped in tinfoil. On unwrapping the cigars, I found a $10 bill.

JESSE H. PRESCOTT, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Flint, Michigan, and have lived there about twenty years. I am with the Chevrolet Motor Company in the painting department. I have been engaged in the automobile business for about 12 years. Some time prior to August 27, 1918, I attended a meeting at the home of Mr. Fred Henry in Flint, at

which Mr. Paul King and Richard Fletcher were present. Mr. Henry introduced me to Mr. Fletcher. During the evening while we were aside in Henry's home, Mr. Fletcher asked me if I knew McKeighan. I told him that I did. He asked me if I knew how McKeighan stood in this campaign. I told him I understood—in fact, McKeighan had told me that he was for Osborn. He asked me if I was close enough to McKeighan to use my influence to get him with the Newberry bunch. I told him I did not know as for that, and he stated that he was in a position to do McKeighan a lot of good in his case pending in the Supreme Court, and that he would see McKeighan the next morning. I think I attended three of the Newberry meetings at Mr. Henry's home during the campaign I talked with Mr. Henry several times during the campaign with reference to his work for Mr. Newberry. At one of our talks which took place at the Electric Cigar Store shortly before Primary Day, he asked me to line up 6 or 8 different men to work for the Newberry campaign at the Buick factory. I told him I would speak to them, and I did. He said I could tell them that he would take care of them financially. I took nobody to Mr. Henry, but I afterwards introduced him to a man of the name of Love in the Electric Cigar Store. I told Mr. Henry I had decided that I would not be a Newberry man. He said I was foolish; there was a chance to get a nice piece of change out of it; that he had just banked $2,000 and more was on the way, or more was coming; I would not say which.

CROSS EXAMINATION BY MR. LITTLETON:

I could not state the date of this conversation I had in the house of Mr. Henry when Mr. King and Mr. Fletcher were there. If I remember, it was along in August, I would not say for sure. I had been to Mr. Henry's house several times before that night. I had known Mr. Henry six or seven years, possibly eight. I had been a little active in local politics during that period, and I had been active with McKeighan in his campaign, doing political work for him. I had been with Mr. Henry in political matters before. This meeting at which I met Mr. Paul King and Mr. Fletcher was the first time I went to Mr. Henry's house in reference to the campaign of 1918. At least forty or fifty men were present at that meeting and speeches were made. I was invited to the meeting by Mr. Henry. I do not think I told Mr. Henry, or anybody else, at that time who I would support for Senator; I do not remember that I did. I do not think I expressed my preference at that time at all. It was after the meeting was over that Mr. Fletcher took me to one side to talk with me. I do not

know that he called me to one side, but we were at one side in fact. It was then that I told him that I knew McKeighan. There were other people present, but there was nobody near enough to hear our conversation.

When Fletcher told me he was in a position to do McKeighan a great deal of good, I had not told him that McKeighan had then been convicted of assault and robbery. I said nothing to him about the fact that McKeighan had been convicted. Fletcher said nothing about the fact that McKeighan had been convicted, except that he was in a position to do him a good deal of good and for me to see him and see if I could not get him to support Newberry—words to that effect; that is not his words. He said that he was in a position to do McKeighan a lot of good in his case pending in the Supreme Court. That is all he said in regard to that. I had understood that McKeighan's case was in the Supreme Court at that time. I do not know when he was tried. I do not think I ever saw Mr. Fletcher since. I cannot remember that I did. The next meeting I attended at Mr. Henry's house was two weeks, or something like that, after this. I did not tell Mr. Fletcher on this occasion that I would see McKeighan or that I would not see him. I did not tell him either one. There was so many at the second meeting, I could not tell you who was there. There was a matter of thirty or forty or fifty present, and there was speaking. I remember seeing a man by the name of Stoddard there for one. He was a candidate for Senator, also Hugh Maddigan and George Lukes. That is about all that I remember that I was acquainted with at that time. I do not know as I was invited to the meeting. I was told there was a Newberry campaign meeting there and went. I do not think I had then expressed a preference in the campaign or taken sides or determined whom I would support. I had seen Mr. Henry several times between the two meetings. Referring to my conversation with Mr. Henry at the Electric Cigar Store with regard to getting men from the factory to do political work, I did not get any names, but I saw some different men at the factory and told them what he said, and asked them to go out there to a meeting and they would meet Mr. Henry. At the time of my second conversation with Mr. Henry at the Electric Cigar Store, I was not taking any sides either way, particularly. I had not attended any meetings of any other candidates for Senator up to that time. On this occasion I told Mr. Henry I had decided not to be for Newberry. Nobody else was present when that conversation took place. I first repeated that conversation one time to Bishop & Blackney, attorneys at Flint. I have no idea when it was. I

recently repeated it to a Government agent, and made a signed statement. It was when I told Mr. Henry that I had decided not to be for Newberry, that he told me, in substance, that he thought I was making a mistake and spoke, among other things, of having already banked $2,000. He did not say where he had got the $2,000, or where he had banked it. He said, "And there was more on the way," but he did not say where it was coming from. I met him several times after that during the campaign, but had no particular talk with him. I never did take sides in the campaign.

J. LOVE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I am a resident of Flint and have been living there about six years. I am employed by the Chevrolet Motor Company. I commenced work for them November 13th, 1918. Previous to that I was working for the Buick Motor Company. I know the defendant, Fred Henry. I met him the morning of the primary election of 1918 at the Electric Cigar Store. He told me that they needed a man to work at the pools at the City Hall, and I told him all right. We got in his car and he drove me up to the City Hall, and after getting out of the car he gave me a bunch of Newberry cards and left. I stayed at the polls at the City Hall that day. It was a voting precinct. During the day I saw Mr. Henry passing on the street in his car once or twice. I next saw Mr. Henry a few days after primary day. I was sitting in the Electric Cigar Store and he came in and sat down beside of me. I talked with him two or three minutes and he gave me a ten dollar bill.

CROSS-EXAMINATION BY MR. LITTLETON:

I distributed the cards Mr. Henry gave me outside the City Hall, on the sidewalk. When he asked me to distribute them, he did not tell me that he would pay me for my time. Nothing was said about that. I had known Mr. Prescott about twenty-five years at Flint and other places.

J. SCOTT HUNTER, one of the defendants named in the indictment but who had entered a plea of nolo contendere, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Detroit all my life. I am a furniture salesman and have been with the same people between twenty and twenty-five years. In 1918 I was a member of the Council. I was a member just two years. I knew Milton Oakman. In the spring of 1918 I attended a little smoker at the home of Mr. Oakman. At that time Mr. Oakman asked the boys there to do what they could for Mr. Newberry. I have been in the Newberry Senatorial Headquarters in the Ford Building. I should judge I first went there early in the campaign after the candidates were announced. It was after the time I attended this meeting at Mr. Oakman's home. Between that time and the time I first went up to headquarters, I had met the defendant, B. Frank Emery, in the City Hall. He told me he was handling the Newberry campaign end of it there, or some words to that effect——I cannot just recall the words that he used—and wanted to know if I could not do something for them. I told him I would see him about it, or would see about what I could do for them; so later on he asked me down to the headquarters, and I went there and met him in a room adjoining the entrance into the suite of rooms. There is a little hall like as you enter and then there is a room off from it. We did not stay in the room that I first entered; we went into another room. Nobody was in the other room besides Mr. Emery and myself. He asked me at that time to assist in the campaign, but there was no transaction between us. I returned to headquarters a few days afterwards by appointment with him that day. At that time he gave me $300 in currency. He requested me to work for Mr. Newberry's interest with the $300 and he gave me a lot of literature, buttons, etc., to distribute. I took the literature and the buttons and I expended this $300. I spent it around advertising Mr. Newberry from one place to another, buying drinks and cigars. I spent the entire $300 that way. It was gone some time before the primary day. I did not give Mr. Emery a receipt. After the $300 was gone, I paid more visits to the headquarters. I saw Mr. Emery on the occasion of my next visit in the same room. Nobody was present the second time. I do not remember whether it was that or the next one—I possibly was there four times—but either at that or the next time Mr. Emery delivered a second $300 to me in cash. I did not give him a receipt for that $300. It was given to me for the same purposes. There was nothing mentioned in regards to it, I suppose it was meant for services. I spent it the same way as I did the other, that is, for liquors and cigars in treating, through

the city. I spent the entire sum in that way, all but what I spent for expenses on my machine, running it, gasoline and little things needed on it. I am one of the defendants in this case.

CROSS-EXAMINATION BY MR. MURFIN:

I was a member of the Detroit Common Council for two years. Prior to that I was a member of the Detroit School Board for something like six years. Prior to that I was a ward committeeman of the Republican party in the Fifth Ward for a great many years, and I was a member of the Republican City Committee for a number of years. Of the 135 men indicated with me in this case, I had only heard of Mr. Oakman and Mr. Ingalls, and I think Mr. McGregor, before I was indicated. I had not heard of over five of the 135 men I am charged with conspiring with; only what I have read in the papers their names, being familiar with their names. Outside of the meeting with Mr. Oakman in his house when there were some others there talking politics, and my talk with Mr. Emery, I had not, prior to my indictment, talked about this campaign with any one of the 135 men with whom I am charged with conspiring. I had no dishonest intent or criminal intent in anything I did on behalf of the Newberry campaign. I was a Newberry man before I attended the conference at Mr. Oakman's house. I determined to support Mr. Newberry as soon as his name was mentioned as a candidate. I cannot remember whether at Mr. Oakman's house other candidacies for other offices were discussed besides the Newberry candidacy, unless it was Mr. Oakman himself. I cannot repeat just what was said there in regards to it, but I think if I am not mistaken there was something in regards to Mr. Oakman, but I do not remember, I would not want to say as to it. I had known Mr. Emery before this campaign started. Neither Mr. Emery or anybody connected with the Newberry campaign gave me any orders or directions as to how I was to handle the money that they gave me when they gave me this literature; there was nothing said in regards to that. Mr. Emery told me how to disburse the first $300; the second $300 was entirely with me; nobody told me what to do with it.

RE-DIRECT EXAMINATION BY MR. DAILEY:

Each time that $300 was offered me, I took it and I intended to spend it just as I did spend it, and in the interest of Mr. Newberry's candidacy.

NEIL R. WALSH, one of the defendants named in the indictment but who had entered a plea of nolo contendere, being

sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Owosso, Shiawassee County, Michigan. I am a lawyer. After a conversation with the defendant Terry Corliss about the last of April 1918, with reference to the candidacy of Mr. Newberry, I acted as secretary of the Newberry Committee. I went to some office in Detroit, I think in the Ford Building, to meet Mr. King, I cannot recall what was the number of the office. I did not see Mr. King that day. I did see some person at the office or headquarters. I am not positive who it was; it was either Mr. Emery or some other gentlemen, but I am not positive which. They were all absolute strangers to me. The second time I met Mr. Corliss in Owosso he told me that he thought I would be a good man. He said I looked like a wonder, and I allowed I was, and he thought I would be a good man to handle the campaign for Mr. Newberry and to do the necessary distribution of literature and work along that line. I told him I had a family, was alone in my office, had no stenographer, and that it would necessitate the closing of my office if I entered this work, but I said I would do it provided I could get reasonable compensation for my labor, and Mr. Corliss said that there was a committee he expected would look after that; that he had no authority himself to promise anything. My impression is now that I had a later conversation with someone connected with Mr. Newberry's organization with reference to my compensation for my labor. I think I told them what I would want would be, and ought to be, reasonable compensation for my work; left that with them, I am inclined to think that conversation was had with Mr. King. I am not positive about it. I do not know Mr. King. After that I received checks or drafts, whatever they may have been, I cannot recall at this time, amounting altogether to about $525. I cannot recall the amount first sent me. It came by check and I paid no more attention to it than I would to any other business transaction. I cannot say how many different times I received a remittance in any form. I distributed some literature. I worked my head off there night and day for about four months. In doing that I had some expenses. I had to travel some with an automobile and I paid for it; and I distributed through the mails a great many of the Newberry folders of different varieties; and I had some telephone expenses; once in a while I went out to one of the little bergs on the railroad, and eating—I had to eat—and paid for that, and I paid my railroad

fare, and in connection with that there was considerable stamps that I bought; I bought envelopes to put these folders in and distributed them on one Saturday night in Owosso. Me and my two youngsters distributed 700 in automobiles in Owosso, and I covered the county, and I covered every factory in the county, and every railroad shop and yard. The automobile expense was not for my own machine, I have not any. I had no stenographer expenses also, done my own stenography. My personal expenses for meals and car fare, and so on, where taken out of the funds sent me. The total amount I expended was about $125. The other $400 was retained for my services.

Mr. Corliss was in the county or the different towns during the campaign, and accompanied me on several trips in the country distributing literature. I think he had his own automobile, and I think the expenses for meals and anything of that sort were taken care of by him. I was not asked to make any statement of my expenses in connection with the campaign. The defendant James Davis asked me to make a statement of my personal expenses. I told him I had spent about $125 actual expenses. I was not asked to make an itemized statement or written statement at that time. I told Mr. Davis from my memory. Everything was then fresh in my memory about the campaign and about the expenses, and I told him as nearly as I could just what they were. I was not asked to make any accounting of the other $400.

CROSS-EXAMINATION BY MR. LITTLETON:

I do not know on what institution the various checks I received from time to time were drawn. Mr. Corliss told me when he first came to talk to me about it that the money was contributed by Newberry's relatives and his friends and was to be used for legitimate purposes. It was at the next conversation that I agreed to take the secretaryship of the county. Will Whitehead was the Chairman in our county. I think I saw Mr. King in Owosso at a meeting of several of the county committeemen from around the county and the voting precincts. We met in the Elks Temple. It was just a small meeting. I got about 400 names on the Newberry petition all told. I think I sent in those names. As to having correspondence with the man at the headquarters of the Newberry campaign, I might have written a letter or two to Mr. King, but I have not any of that correspondence. I was one of the defendants in this indictment. In anything that I did, the work that I have outlined to the jury, I had absolutely no intent to vio'ate any law.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

I did intend to receive and retain $400 of the money that was sent me, and I did so. When it was paid I intended to receive it as pay for my labor, which covered about four months. I was retaining compensation at the rate of about $100 a month. I also reimbursed myself for my own traveling expenses and my own hotel expenses or restaurant expenses with the money I used for that purpose. When Mr. Corliss first told me that money was being contributed by Mr. Newberry's relatives and friends he did not tell me about how much money was being or would be contributed by them. That was not mentioned at all. Nothing was said about the extent of the expense money. Mr. Corliss said that there would be money to pay for legitimate expenses. He said nothing whatever about how much money. He did not tell me anything about the reasons for having the contributions. In that conversation he said nothing whatever to me about Mr. Newberry's ability or inability to finance his own campaign. The only thing he told me was that he wanted the people to be advised as to Mr. Newberry's qualifications and disposition and this literature would do it, and I could not tell you in which conversation he was discussing the source of the contributions. It was the only conversation I had with him about it. I think it was the second time I met him. He only came to see me once. I had not known Mr. Newberry except by reputation. When Mr. Corliss told me that the money would be contributed by Mr. Newberry's relatives and friends I said nothing to him as to Mr. Newberry's ability or inability to finance his own campaign. I did not know anything about his financial standing at that time. I had known of him ever since he was Secretary of the Navy.

MARSHALL L. CAMPBELL, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Leslie, Ingham County, Michigan. I am in the farming and insurance business. Incidentally I am a justice of the peace. During the Senatorial primary campaign of 1918, after talking with the defendant Fay Dunning, I got a man named Barnes to look after the township of Aurelius, in the interest of Mr. Newberry. Mr. Barnes said he was a very busy man and that he would have to hire someone to go in his place, and he thought his expenses would be $15 to look after the township. I sent him the $15. After this, possibly three or four days before the primary, I saw the defendant Chilson in my office and had a

talk with him. I told him that the only expense I had been to was the money I had sent to Mr. Barnes, and Mr. Chilson gave me this $15.

THOMAS B. TOWNSEND, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Grand Ledge, Eaton County, Michigan. I have been a resident there practically all my life. I first met Dr. J. B. Bradley during the primary campaign of 1918. He came into my place of business and asked me to circulate petitions for Mr. Newberry. He suggested that I get some of the men in the factory to circulate petitions or help me circulate them, and he would be over later with some money to pay them. I circulated one of the petitions, and I spoke to several other people about circulating them. There were only two that did any work, however, one I think was Elmer Shoff, the other I cannot recall. I turned this petition that I had filled out over to Doctor Bradley at Grand Ledge. He came over after it. Shoff or this other man whose name I do not recall, brought back to me one petition each. Doctor Bradley left $25 with me. I gave $5 to Shoff and $5 to the other man, and retained the other $15.

CROSS-EXAMINATION BY MR. LITTLETON:

There was some literature left at my store by Doctor Bradley, but I did not circulate it. I left some on the showcase. I was in favor of Mr. Newberry before Doctor Bradley came there.

MICHAEL BUZALSKI, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Grand Rapids and am machinist by trade. I work at present for the Perkins Machine Company. I was living in Grand Rapids two years ago and was acquainted with Mr. George Welsh. I was in the Republican headquarters in Grand Rapids a short time before the 1918 election. Mr. Welsh did not give me any literature or petition at that time. I got the literature before the primary, also the petition that I was taking the names on. The literature I got was printed both in English and in Polish. I got it from Mr. George Welsh. I circulated the petition and after I had gotten signers, gave it back to Mr. Welsh. Before I started to work Mr. Welsh gave me a $5 bill. Later in the campaign I got some Newberry buttons. The literature I have

mentioned was about Mr. Newberry. I got the buttons about two months afterwards from Mr. Welsh. He told me to give them to my friends. I did so and they put them on their coats. I got a $5 bill that time. I could not just say how many buttons I handed out. I had a handful and I distributed them around.

CROSS-EXAMINATION BY MR. LITTLETON:

I guess the buttons were distributed before the primary, and the literature was distributed and the petition circulated before the primary. Those payments were made to me by Mr. Welsh before the primary. It wasn't mentioned what it was for and I simply took the money when I got it.

A. F. NORRIS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Prairieville, Barry County. I am acquainted with the defendant A. A. Anderson. In the primary campaign of 1918 Mr. Anderson asked me to assist him in some work in connection with the Newberry campaign. I did some work. I personally employed three different fellows to drive out with petitions to another part of the township—circulating Newberry petitions and some literature. I paid them $5 apiece just for the use of their rig. I do not know whether that money was paid to me before or after I paid it to them. Mr. Anderson delivered to me altogether $75. I did not employ any men besides the three. All I paid out was the $15. I attended a dinner in behalf of the Newberry campaign at the Parker House in Hastings, which is also in Barry County. I don't know whether the guests were charged. I was not. I do not know who paid for the dinner. Mr. King was there.

CROSS-EXAMINATION BY MR. LITTLETON:

My business at the present time is farming more than anything else. In 1918 I was closing out an agency for the Chevrolet Motor Company that I had in Barry County. I have known Mr. Anderson probably eighteen years—ever since he came to Hastings. He was cashier of the bank at Hastings. I think Mr. Anderson first spoke to me regarding the Senatorial campaign some time in July. I was for Mr. Newberry before he spoke to me. I think I was one of the original men in Barry County for him. Mr. Anderson knew I was for Mr. Newberry, because we had talked several times before. When Mr. Anderson first asked me to interestest myself in the campaign actively he said there would

have to be petitions gotten in every township in the county, and he thought I was in a better position to get them in than anybody else, as I was driving a good deal. I don't know how many blank petitions I had filled out. I put in from one to three or four in every township. It was a busy time in the year and the average man couldn't go far with them. I went to the townships in the County. In some instances I went back. This was mixed in along with my own work, and I should think I gave from five to ten days time to it, as I drove around. I think I got the Newberry literature from Mr. Anderson; that I circulated myself, and I also gave it to others to circulate. If I came to an attorney or groceryman or somebody I asked them if they would hand out the cards. I think somewhere from thirty-eight to forty or forty-two men were present at the dinner I have mentioned. Mr. King talked, and I think one or two others also spoke. I think there was no discussion of other candidates for other offices. I think that meeting was held in July, maybe the first of August.

The Government here offered in evidence Government's Exhibit No. 7, consisting of several deposit slips, representing deposits made in the Commonwealth Savings Bank, Detroit, heretofore identified. It was agreed by counsel that in reading these slips, the heading should be read once and then the date and amount. They were accordingly read to the jury as follows:

GOVERNMENT'S EXHIBIT NO. 7

Commonwealth Savings Bank,
Detroit, Michigan.

Deposited by Truman H. Newberry Senatorial Committee.

Detroit, March 23, 1918.

Checks on this bank will be credited conditionally. If not found good at close of business the day of deposit, they will be charged back to depositor and the latter notified. Checks on other Detroit banks will be carried over for presentation to the Clearing House on the following day.

This bank in receiving checks, drafts, notes, or other items on deposit or for collection, acts as your agent only, and assumes no responsibility beyond the exercise of due care in selecting agents.

Should any such check, draft, note, or other item be dishonored, or should there be any delinquency on the

part of the collecting agent, the amount will be charged to the depositor's account.

In making this deposit the depositor hereby assents to the foregoing conditions.

Currency

Gold, Silver, Checks and drafts $1,000.09

List the items.

March 29, $1,000.00
4/6/1918 $3,000.00
April 10, 1918, $3,000.00
4/17/1918 $4,000.00
4/24/1918 $6,000.00
May 9, 1918 $2,000.00
May 14, 1918 $1,000.00
5/24 1918 $1,000.00
June 1, 1918, $2,000.00
6/11, 1918 $2,000.00
6/13, 1918 $2,500.00
6/20, 1918 $1,000.000
6/24, 1918 $2,000.00
6/26, 1918, $2500.00
July 2, 1918, $3000.00
7-8-1918, $5,000.00
7/10/1918 $5,000.00
7/11/1918 $2,000.00
7/12/1918 $10,000.00
7/17/1918 $2,000.00
July 22, 1918 $3,500.00
July 25, 1918 $2,000.00
8/8/1918, $2,000.00
Aug. 10, 1918 $8,000.00
Aug. 14, 1918 $7,400.00
8/16/1918 $2,500.00
Aug. 19, 1918 $3,500.00
Aug. 20, 1918, $500.00
Aug. 23, 1918 $5,000.00
Aug. 24, 1918, $5,000.00
Aug. 26, 1918, $5,000.00
Sept. 4, 18 $10,000.00
No date $11,500.00
Sept. 6, 1918 $28,956.00
Sept. 1918 $13,000.00
Sept. 6, 1918 $10,000.00
Dec. 7, 1918, rvt. cash ck. $1.20

The Government here offered in evidence certain telegrams, marked "Government's Exhibits Nos. 98 B and 113 to 113-G, inclusive, and No. 113-I to 113-L, inclusive, which were received and read to the jury as follows:

GOV. EX. 98-B

Grand Rapids, Mich.
4:50 P. M.

July 9-1918

Dr. W. A. Lemire, Escanaba, Mich.

Have all arranged for at least three hundred dollars. Do not make any announcement till I return Saturday morning.

Judd Yelland

GOVERNMENT EXHIBIT NO. 113.

"Detroit Mich June 24-18.

Hon. W. J. Galbraith, Houghton, Michigan.

Annual meeting Michigan State Bar Association Kalamazoo Thursday Friday this week think it excellent idea have Newberry's name unobtrusively kept before members as index to strength of our organization if you could go you could do much along this line. Please say if you can. Honorable Charles Farell Chairman there.

Paul H. King."

GOVERNMENT EXHIBIT NO. 113-A.

"7-16-1918.

To Paul H. King, 310 Ford Bldg. Detroit.

Finished up Iron and Dickinson and arrived here tonight. Leave for Marquette Thursday evening. Program continues without interruption local organizers will make sincere complete and determined fight with prospects of carrying each County. No trace anywhere of Cloverland activity so far believe it must be a myth.

Chas."

GOVERNMENT EXHIBIT NO. 113-B.

Houghton, July 16, 1918.

To Paul H. King, 310 Ford Bldg. Detroit, Mich.

Our Organization complete in Iron County and in first class condition. Reports by the Democrats here that Ford is to withdraw. John Haggerty sent petitions here without success. Charley and mys-lf will be here for a few days.

James F. McGregor.

GOVERNMENT EXHIBIT NO. 113 C.

Houghton, July 17, 1918.

To Robert Benjamin, St. Ignace, Mich.

Mail me your Committee Douglas House, Houghton.

Jas. F. McGregor.

GOVERNMENT EXHIBIT NO. 113-D.

To F. P. Bohn, Newberry, Mich.

Mail me your committee, Houghton Douglas House.

James F. McGregor.

GOVERNMENT EXHIBIT NO. 113-E.

Houghton, Aug. 17, 1918

To B. F. Emery, 310 Ford Bldg. Detroit, Mich.

Gocbic County in good shape. Baraga splendid. Saw Crebassa in reference to Ontonagon; all settled. Send two hundred cards and buttons Charles Mac Intyre, Walter Sutton, Lake Linden. Howard W. Presho, Houghton. One box buttons to Wm. Crebessa, L'Anse.

James F. McGregor.

GOVERNMENT EXHIBIT 113-F.

Western Union Telegram.

Houghton, Aug. 20, 1918.

Paul H. King, 310 Ford Building, Detroit, Michigan.

Ontonogan County in good shape and we will carry it by a good majority nothing too the Crebassa matter hold up. Send Jones some buttons Marquette tomorrow.

James F. McGregor.

GOVERNMENT EXHIBIT 113 G

Western Union Telegram.

Houghton, Sep. 2, 1918

Paul H. King, 310 Ford Building, Detroit, Michigan.
Dickinson, Iron, Goegebic, Ontonagan, Houghton, Baraga all right. Marquette tomorrow.

James F. McGregor.

GOVERNMENT EXHIBIT NO. 113 I

WESTERN UNION TELEGRAM.

Houghton, Aug. 17, 1918.

B. F. Emery, 310 Ford Building, Detroit, Mich.
Yelland of Escanaba wired me have you sent him and Bohn what I asked answer.

James F. McGregor.

GOVERNMENT EXHIBIT NO. 113-J

Western Union Telegram

Houghton, Aug. 17, 1918.

Charles A. Floyd, Grand Rapids, Michigan.
These counties in good shape Fight in Delta may have to go back there County House at Iron Mountain with us the Flash Light at Ironwood still doing business. Be here until Tuesday night.

James F. McGregor.

GOVERNMENT EXHIBIT NO. 113-K

Western Union Telegram

Detroit, Mich. Aug/17, 1918.

James McGregor, Douglas House, Houghton, Mich.
Please come down tonight for conference Sunday Return North immediately.

Paul H. King.

GOVERNMENT EXHIBIT NO. 113-L

Western Union Telegram.

Houghton Aug 17, 1918

S. J. McGregor, Iron Mountain, Mich.
Mail me your list of Committees Douglas House, Newberry Strong.

J. F. McGregor.

The Government then offered in evidence the following telegrams, marked Government Exhibits Nos. 114 to 114-E, inclusive, which were received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 114.

Manistique, July 10, 1918.

Paul H. King, 310 Ford Bldg, Detroit, Mich.

Mackinaw, Luce Counties organization completed in good condition and satisfactory. Will be in Escanaba tomorrow night, expect to meet Floyd here tomorrow, arrived here tonight.

James F. McGregor.

GOVERNMENT EXHIBIT NO. 114-A.

Detroit, Mich. Benjamin Gero, Manistique, Mich.

Petitions received from every County but yours which to make representative showing when filing. Kindly send what you can by mail to-day.

Paul H. King.

GOVERNMENT EXHIBIT NO. 114-B.

Manistique, Aug. 5, 1918.

Paul H. King, 310 Ford Bldg. Detroit, Mich.

Arrived here tonight. Mackinac and Luce Counties in first class shape and our candidate will receive good majorities in these two counties. Will be here tomorrow.

James F. McGregor.

GOVERNMENT EXHIBIT NO. 114-C

Manistique, Aug. 6, 1918.

To Paul H. King, 310 Ford Bldg. Detroit, Mich.

Benjamin Gero has Schoolcraft County in first class condition. We will get good results from here. Drove around the county with him today. Escanaba tomorrow.

James F. McGregor.

GOVERNMENT EXHIBIT NO. 114-D

Manistique, Mich.

Detroit, Mich. 10:40 A. M. F. I. Guinan, Manistique, Mich. Last minute attacks undoubtedly reacting in our favor every indication of over whelming vote. Know you will go over top there. Commander Newberry wishes me to express his personal appreciation of your efforts.

Paul H. King.

GOVERNMENT EXHIBIT NO. 114-E.

Detroit, Mich. Ben. J. Gero, Manistique, Mich.
Hope you can have strong resolutions endorsing Newberry passed at County convention tomorrow.

Paul H. King.

The Government then offered in evidence the following telegrams, marked Government's Exhibits Nos. 115 and 115-A, which were read to the jury as follows:

GOVERNMENT'S EXHIBIT NO. 115

Mount Clemens, Mich. 8-12-1918.

Paul H. King, Newberry Headq. Ford Bldg. Detroit, Mich. Jacob F. Hartsig, Warren, Mich and C. H. Jobse, Mt. Clemens, R. F. D. Warren and Harrison Townships respectively. Consent public endorsement.

George W. John

GOVERNMENT EXHIBIT NO. 115-A

Mount Clemens, Mich. 8-17-19.

To Paul King, Newberry Senatorial Hdq. Ford, Bldg. Detroit, Mich.

Fred Eply, Pres. Epley and Sons Wholesale and retail groceries and meats, Mt. Clemens, Geo. Chambers Pres. Chambers & Steward Co. Jewelery and Stationers, Mt. Clemens. J. L. Cohn, Clothing Merchant, Romeo. Authorize public endorsement Newberry.

Geo. W. John.

THOMAS J. HOWES, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Adrian, Michigan. I am not engaged in any business

at present. During the primary campaign of 1918 I was working at the Marble works. I circulated some Newberry petitions. I can't tell you where I got them, or who I got them from. After they were signed I think I delivered them to the Defendant Glenn Williams. Later Mr. Williams gave me $15. He asked me what I charged; I told him I didn't charge him anything. He says you ought to have something, and he gave me the $15.

CROSS-EXAMINATION BY MR. LITTLETON:

I had taken the side of Mr. Newberry before Mr. Williams talked to me about it. Besides the circulation of the petitions I was asked to put out literature, which I did. I put it out all around the city and in automobiles. I also put out some pictures. I do not remember whether I was on the Board in Adrian City or not. I took the poll list and went around the men that I knew and they checked it off for me in each precinct. I returned that poll list to Mr. Williams.

PHILLIP LOUIS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I am 42 years of age and a groceryman. I live in the east end of Gladstone, Delta County, where I have been in business for 18 years. I know Judge Yelland and Henry Dotch, both of whom live in Escanaba, which is about eight miles I should judge from Gladstone. During the primary campaign of 1918 I saw Mr. Yelland and Mr. Dotch in my store. They asked me if I could do anything for them in regards to the primary or the coming election, and I told them I didn't have time, that I was very busy, and I told them I thought I could think of a man that would be very capable of giving his time, and I referred them to John C. Youngs, of Gladstone. We went out from the store to Youngs' place, and I met Mr. Youngs in the street. I left Mr. Dotch and Mr. Yelland with Mr. Youngs in the middle of the street. Before Yelland and Dotch left the store they placed some pamphlets on the counter while I was waiting on some of the customers. When I went over to get the pamphlets I noticed a $5 bill laying aside of it, and said what is that for? They said it was for my expense in distributing those pamphlets around to my customers and trade. I said that didn't cut no ice, I didn't want no money for it, but they left it there and I naturally stuck it into my pocket.

CROSS-EXAMINATION BY MR. LITTLETON:

I have known Judge Yelland maybe ten years for all I know. I distributed the literature they left there. I had taken sides in the primary campaign before he and Mr. Dotch came to see me. I was for Newberry before they came there.

RE-DIRECT EXAMINATION BY MR. DAILEY:

I must have known Mr. Dotch for the last three or four years. He is a lawyer of some kind, and Judge Yelland is Judge of the Probate Court.

EDWARD I. SMITH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Escanaba. I am a weigh master in the employ of the Chicago & Northwestern Railway Company. During the primary campaign of 1918 the defendant Yelland gave me probably 100 or 150 Newberry pamphlets. He did not ask me to distribute them, just handed them to me. I did not distribute them. At the time Yelland gave me the pamphlets he gave me a $5 bill.

CROSS-EXAMINATION BY MR. LITTLETON:

He did not ask me to distribute them, he just came in and asked me if I was a Newberry man. I told him I was, and he gave me the pamphlets and a $5 bill. I did not distribute them. I read one of them. I had taken a position on the Newberry matter before he came there.

JOHN BERO, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Menominee, Michigan, engaged in the electrical work with the Michigan Electrical & Chemical Company, Menominee. I have lived in Menominee County 33 or 34 years. I have known the defendant Anton Bushak for quite a while. During the Senatorial primary campaign of 1918 he and I met on the street, and he said that he thought he could get me in on that campaign, and he said there would be probably $40 or $50 in it for me, to get out and work in the campaign. I supposed it was all who had something to do in the election. He did not mention any candidate in particular. I do not exactly remember now

whether he said the work was to be for Mr. Newberry. That thing has absolutely slipped my mind since the time I met him. He probably said there would be between $40 and $50 in it to get out and work for Newberry. He did not tell me to get out and work particularly for Mr. Newberry; not for Newberry, it was on the campaign during—

MR. DAILEY: Let me show you a statement just a moment. (Witness is here handed a paper which he read to himself).

THE WITNESS (continuing): That is my signature. I can't exactly remember whether Mr. Bushak told me to get out and work personally for Mr. Newberry alone. I remember making this statement, and I remember testifying before the Grand Jury. I do not remember of telling the Grand Jury that Tony Bushak came to see me and said to me he was going to get me in on some big stuff. I couldn't say yes or no, because I don't exactly remember. I told the Grand Jury that Bushak said that he wanted me to get out and work for Newberry, and that there would be $40 or $50 in it for me, but I do not now remember whether he told me that. As far as I could remember I was telling the jury the truth about it. I now remember making this statement. It was correct so far as my knowledge—so far as I can remember back. I further said before the Grand Jury and also in this statement that after Bushak asked me to go out and work for Newberry I did get out and talked with people for him. I do recall that I said that after he spoke to me I got out and worked for Newberry at his request. There was some other men I worked for besides Newberry at the time.

CROSS-EXAMINATION BY MR. LITTLETON:

I received no money from Mr. Bushak of any kind or description during the primary or after the primary. I have known him for a number of years, couldn't exactly state how many, but I have known him for a long time. I have lived in Menominee 33 or 34 years. I will be 37 my next birthday. I am married and have a family. I first saw a representative of the Government in this case at the shop where I was working. It was on a Sunday, in the fall of 1919. The man I saw introduced himself as Mr. Kelly. I made this signed statement according to my best recollection of the facts. I did not attempt to conceal or hide anything, and when I went before the Grand Jury I made my statement according to the best of my recollection, and did not attempt to hide or conceal anything there. I have not talked with Mr. Bushak about being a witness, or to Mr. Dotch. The

only man I can remember speaking to about this case is Judge Dailey. I spoke to him in the jury room. That is the only one I talked to about the case whatever. He asked me, I answered him.

JOHN E. SHEAHAN, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Escanaba, Michigan. In the Newberry primary campaign of 1918 the Defendant Henry Dotsch asked me if I was busy around election, and I told him I was working. He wanted to know if I would distribute some cards around the dock there, I told him I would. He gave me a stack of Newberry cards wrapped up, I didn't count them. Besides the cards he gave me $10.

CROSS-EXAMINATION BY MR. LITTLETON:

I work on the coal dock. At the time of the 1918 primary I was alderman of the town, and Mr. Dotsch was city attorney. I had not taken sides in the Newberry matter before he spoke to me. I was not a Newberry man. I distributed those small cards that he gave me; I brought them over to the dock and left them out on a table there where the men go back and forth to work, and they picked them off from the table. That was the primary election and had no reference to the general election. I took no active part in the campaign. I was not running that year for any office, nor was Mr. Dotsch. I think the incident to which I testified occurred about two weeks before primary day. I had no other literature than this which I have already described. I had nothing to do with any petition.

FRED W. GREEN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Ionia, Michigan, and am in the manufacturing business. In 1918 I was treasurer of the Republican State Central Committee. On November 19, 1918, after the election, the defendant Truman H. Newberry made a contribution of $1,500 through me to the Republican State Committee.

A. J. USHER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Charlevoix, Michigan. In 1918 I was part owner and publisher of a newspaper called the Charlevoix Courier, which carried the advertising of the Newberry Senatorial Committee in the months of May, June, July and August of the primaries. Our total bill for advertising during the primaries was $30.55. We received payments of that bill at various times. The first payment was the 13th day of August, 1918, of $9.23. The second payment was November 14th, $21.32, making $30.55. The next payment was $17.40 November 30th, which had no relation to the primary advertising. A subscription of $1.80 to the paper was included in the November 30th payment. That was from May 1918 to May 1919. We sent the paper to the Newberry Senatorial Committee, Ford Building, Detroit. I have looked at the certified copy of Frank W. Blair's report in this case to see whether or not the amount of $30.55 was included. It was not. It appears in this report that we were paid $9.23 for this primary advertising. That was paid August 13th. Both of the other payments were in November.

CROSS-EXAMINATION BY MR. LITTLETON:

All that was paid by September 6th, which was the date of the report, was $9.23. That appears in the report; the balance was paid after that.

RE-DIRECT EXAMINATION BY MR. DAILEY:

The primary advertising though was done in May, June, July and August.

RE-CROSS EXAMINATION BY MR. LITTLETON:

The bills were rendered monthly. I could not say that the last bill was sent in on the first day of September; the monthly business is checked at the end of the month. I could not say just what date the last bill was sent. The total at that period of time was $21.32. That bill added to the $9.23 was the total of the primary bill, unless the subscription account was included.

RE-DIRECT EXAMINATION BY MR. DAILEY:

The July bill of $10.53 was sent in the first week of August.

JULIAN MALISZEWSKI, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 109 Front Street, Grand Rapids. I came to Grand Rapids on August 2nd, 1873, and lived here continuously since that time. I am engaged in the cigar business at that location. I visited the headquarters of the Newberry senatorial committee in 1918. I had some dealing with them and received an order from Mr. George Welsh for five hundred cigars. I delivered the cigars to them and received a $22 check in payment. That was before the primaries. I am a member of four Polish societies, and besides that we organized before American went into the war, a Polish Citizens Club that is composed of all the societies in Grand Rapids, known as the Polish-American Citizens Society.

C. J. CHAMBERS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is in Ithaca, Gratiot County, Michigan. I am in the insurance business. I am acquainted with the defendant Alf Crawford, who lives in Breckenridge, Michigan, about 14 miles from my home. In the early part of the campaign of 1918 I had a talk with him. He asked me to circulate Newberry petitions or see they were circulated in the south half of Gratiot County and in the village of Ithaca. It would be very difficult for me to tell the names of all the people that I saw at his request, and whom I asked to circulate petitions. Among those whom I paid for that work were Mr. Sebering, $6; Mr. Richards, $5; and Mr. Simon Munson $32. Mr. Munson lives in North Star Township, Gratiot County. After Mr. Crawford had asked me to look after this matter I spoke to each of these three men. Besides these three amounts, I paid out in connection with the Newberry campaign the difference between these three amounts and $67 in connection with the circulation of petitions. I do not recall the names of the other men I paid. It was in very small sums, as there were several men in each township interested. I informed Mr. Crawford about these payments. He had previously sent me a check for $75. I saw Paul King in Alma, Gratiot County, during the campaign. I do not remember whether there was anybody with him or not.

CROSS-EXAMINATION BY MR. LITTLETON:

I have known Mr. Paul King since 1907. I was a member of the Michigan Legislature, and it was at that time that I met him. I have known Mr. Crawford 20 years. He is a banker, a farmer,

elevator man, and has various other interests. I first talked with Mr. Crawford in reference to this matter about the 25th of June 1918, in Ithaca. Mr. Crawford said to me, "I am organizing the County of Gratiot in the interest of Mr. Newberry for Senator. I would like to have you circulate Mr. Newberry's petitions or have them circulated in the south half of Gratiot County and in the Township of Ithaca. We realize that it is a very busy time; we can't expect to get men to circulate these petitions for nothing; we will pay them what it is reasonably and honestly worth to circulate these petitions. We have not one dollar to buy votes with or to unduly influence anyone. We want the work done in an honorable, straightforward manner." I said to him in reply, "I am very busy, but I will do the best I can." On the 28th of June, the 29th day of June and the 2nd of July I drove the south half of the county and with some difficulty secured men in most of the townships to circulate those petitions. I repeated to him in the words as near as I could what Mr. Crawford had said to me about their getting their pay. I further said to them that "when you get through, get these petitions circulated, you either send them to me or to Mr. Crawford with your bill and get your pay." In due course of time the petitions came back and I got the bills of most of the parties that circulated the petitions. Some of them, of course, were a little tardy and some of them did not circulate petitions at all; they found they didn't have the time; but such bills as I got and such petitions as I got I delivered to Mr. Crawford, sent the bills to Mr. Crawford and he sent me a check of $75 and I paid those bills, with the exception of the difference between $67 and $75. I had not taken sides in the campaign before Mr. Crawford spoke to me.

GEORGE E. SHARRAR, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I know the defendant Alfred Crawford. In the primary campaign of 1918 Mr. Crawford requested me to circulate Newberry petitions. I circulated four to eight, I don't know exactly. Three or four weeks after the primary campaign Mr. Crawford gave me about $8 or $9. I cannot tell whether this money was paid before or after September 6, 1918.

CROSS-EXAMINATION BY MR. LITTLETON:

I think I have known Mr. Crawford 25 years. I got three or four hundred names signed to the petitions. I circulated part of

them personally, and was engaged in that work for two weeks in and around my town.

U. F. ASSELIN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is in Norway, Dickinson County, Michigan. I am in the creamery business and also own a farm. I know the defendant Silas McGregor. In 1918 I talked with him with reference to the Newberry campaign. At one time it was on the farm, and at another time in the court house at Iron Mountain. In the talk that I had with him in the court house he asked me how I stood for Mr. Newberry, and I replied that I hadn't made up my mind but I thought that Mr. Newberry was all right. Mr. McGregor asked me in the same conversation if I would distribute literature for Mr. Newberry and if I would work at the polls on primary day. I told him that I was quite busy, but that I would do all I could for Mr. Newberry. There was no transaction between us at the time. After I was told what I was supposed to do, and after I told Mr. McGregor what I would do, I was given $10. That was to be for my services, for services rendered. That happened after we had had the conversation in the court house. After that I went to the polls on primary day in the interest of Mr. Newberry, and I stayed at the polls about two hours. Besides going to the polls for the two hours in his interest I distributed some of his literature at various places in our wards, that is in my regular course of business, when I was about my other work.

CROSS EXAMINATION BY MR. LITTLETON:

My regular work at that time was looking after sales and collections in the creamery end of the business. That took me all over the town, and after this talk with Mr. McGregor in connection with that I distributed the literature for possibly a couple of weeks. I accepted the $10 to pay me for my services. I didn't go to headquarters afterwards to get literature to circulate. I believe that Mr. McGregor was out to the farm one time and he asked me if I wanted some more literature, and I told him yes. I circulated an additional lot after that. I did not distribute any literature at the polls, but I left some at the outside entrance of the polls.

ISAAC FRIMODIG, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Calumet, Houghton County, and I am manager of the Finish Mutual Fire Insurance Company of Calumet. I am also director of the newspaper printed in the Finnish language and published there in Calumet. I was born in Norway. The defendant Fisher lives at Laurium. During the Newberry campaign of 1918 the defendant James F. Fisher called me by telephone to come to the bank one day. I went over to see him and he asked me to spread some of the Newberry primary campaign literature. He gave me quite an armful of Newberry literature. He also gave me $25 for spreading it around. I sent some of it through the mails and some I distributed myself. About a month later or just before the primary election, he gave me another $25. This must have been in the fore part of August 1918. Mr. Fisher came to me one time with an advertisement for Mr. Newberry to be put in the Finnish paper. I suggested first that he publish it, that it was a pretty good circular. It was translated into the Finnish language by the editor of the paper and published. This $50 is all that Mr. Fisher gave me.

CROSS EXAMINATION BY MR. LITTLETON:

I have known Mr. Fisher several years; have been connected with the Finnish Mutual Fire Insurance Company since 1914. I am only a stockholder and director. I had nothing to do with the running of the newspaper. At the time I called on Mr. Fisher in the bank in response to his telephone, he had a table full of this Newberry literature, and asked me to take some of it and spread it around amongst the voters, and he had come to me to do that and he was telling me that the Republicans had to be in line for the next presidential campaign and so on, and if I remember right that we Republicans should stand by and vote for Mr. Newberry. I was for Mr. Newberry before I ever saw Mr. Fisher. I took the literature which he gave me to my office. Then I wrapped it up into packages. We have about 12 agents in the Upper Peninsula in different counties, Gogebic, Marquette, Menominee and Chippewa, and I sent this literature to them. That is about all I did. I had a second lot of them and did the same thing with them. I spread them myself and sent them to about 25 addresses I had, good Republicans, and sent to them a lot of them and spread them around myself.

MAX KELLERMAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at 1407 Sixteenth Street, North Escanaba, Michigan. I have known the defendant Judd Yelland at least 12 years. One evening during the primaries of 1918, possibly one or two days before the primaries, he came to my house and asked me to work for him. He asked me if I was at leisure on primary election day, and when I told him I would be, he asked me if I would work for Newberry, and I said I would, and he gave me ten dollars. I worked for Newberry seven hours I guess it was. I didn't say anything to Yelland whatever in regard to whom I was going to support, but I had picked Mr. Newberry for my man before Mr. Yelland spoke to me; that is, I would vote for Mr. Newberry, but not work for him, I didn't know anything at all about it, until Mr. Yelland came to the house. I went to the polls the next day and handed out Newberry literature, Mr. Newberry's photo I think it was on a little card, with a Navy uniform on.

JOHN C. YOUNG, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Gladstone, Delta County, Michigan. I am a common laborer. I am slightly acquainted with Henry Dotsch and Judd Yelland, who live in Escanaba, about eight or ten miles from where I live. A short time before the 1918 primary election I met them on the street in Gladstone, as I was on my way home. Mr. Yelland wanted me to distribute some Newberry literature, little pamphlets. At the same time he made that request he gave me $10. He gave me $10 more after we talked a few minutes longer. After he gave me the second $10 he said, "You have too much territory to cover; so the rest don't know anything about it I will give you $10 more." That is the way I look it, that he didn't want the rest to know. Mr. Dotsch was standing alongside of him but I don't think he spoke at all. I distributed the literature. Bunches came three or four different times, I couldn't say how much there was, pamphlets and one thing and another.

CROSS EXAMINATION BY MR. LITTLETON:

I was engaged in distributing literature off and on when I was not working—two or three hours on an evening. People are a long ways apart around there. I generally took evenings to

pass it around the houses. It must have been five or six evenings.

I do not remember whether I told them I was for Newberry.

ALFRED C. NELSON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Holton, and was living there in 1918. I was then engaged in the produce business. About two weeks before the primary election of 1918 I had a conversation with Dr. William C. Smith. I saw him on the street in Holton. He came up there with literature and accompanied by Mr. John Dykstra. After we talked a while he spoke about my doing some work in the campaign. I told him I was for Mr. Newberry. After that he gave me about fifty of Mr. Newberry's cards, and also about the same number of Dykstra's cards. In connection with the cards Mr. Smith asked me how the sentiment was in the town, and asked me to pass the cards around. He also gave me $5 shortly before he went away. He asked me how much I should have for my trouble. I told him I didn't expect anything, I didn't wish for anything. He thought that probably I ought to have something for my trouble, and he just slipped the $5 into my pocket. He paid me no other money. I did not employ any one out of the $5, to do any work, and I spent no part of it.

JOHN BECK, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Escanaba, Delta County. Just before the 1918 primary election the defendant Judd Yelland came over to see me and asked me if I was a Newberry man. I said yes. Then he asked me if I would take and hand out some Newberry cards before the primary election, and I said I would. After we was through talking he gave me a $10 bill.

LOUIS DESETELL, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived at Menominee, Michigan, thirty-two years. I know Roger Andrews. In the Senatorial primary campaign in 1918, I had a talk with Roger Andrews at his newspaper office

in Menominee. He asked me if I was a Newberry man and I said I was. Then he gave me some cards to distribute and he gave me an envelope containing $10.

CROSS EXAMINATION BY MR. LITTLETON:

I distributed the cards around to the boys in the town. This time that I spoke to Mr. Andrews was before the primary election. I distributed the cards nights during the primary and I laid off primary day.

G. M. BIERLY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I am retired; dealing in real estate a little. I was formerly engaged in real estate and commercial business. I live at Lake George, Clare County, Michigan. I met the defendant Charles A. Reading, and had a conversation with him during the Senatorial campaign of 1918. I met him at Clare. He gave me some petitions to circulate. I think I circulated seven. That is all he furnished me. I circulated them myself in my home township; the others I distributed among the Republicans and they done the circulating themselves and forwarded them. I only circulated one in my home township. I did not gather them up afterwards. I gave the one I circulated to Mr. Reading. At the time he left the petitions with me he gave me some money, I could not say how much. If I remember right the petitions were given me at Clare, which is fifteen miles from my home. After the petitions, I was furnished with Newberry cards or literature. There were some packages I received from Mr. King. He mailed me a few and I think Mr. Reading gave me a few. They were small packages. I think those that were mailed me by Mr. King were sent from Detroit, and I think Mr. Reading gave me some, which I distributed. I did not pay out a cent in connection with the distribution of them. I paid for our expenses, by which I mean the men that I hired. I do not remember the exact amount, but approximately as near as I can remember I paid out between $30 and $40. That I received from Mr. Reading. I paid out this sum to these men that I hired to convey me and railroad fare, board, etc. That included my railway fare and my entire expenses in taking these petitions around. The northern part of this county is a rural district. I paid for an automobile for myself to travel in, and chauffeur that went along, board and lodging for myself and the

driver. I did not pay a penny to the men who handled the petitions, absolutely nothing. I made several trips and I kind of kept a memoranda of what I spent, and when I came to see Mr. Reading he gave me about the amount that I spent. I think these payments were made to me at Clare, where Mr. Reading had his office and place of business. I went there to see him. He was the prosecuting attorney at Clare County. I went to his law office. I think that is where the payments were made; some of them however. I think he paid me by currency. I do not think those payments were made in the presence of anyone at any time. I got all of the payments from Mr. Reading to the best of my recollection. I think all he said as to his connection with the Newberry campaign was that he was looking after Newberry's interests. In our first conversation he asked me my choice, and I told him Mr. Newberry. As near as I can remember he said he was looking after Newberry's interests in Clare County. After a conversation with the defendant, Charles A. Reading during the Senatorial campaign of 1918, I received the circulated Newberry petitions myself in my home township, and distributed others among Republicans who did the circulating themselves and forwarded them. After the petitions, I was furnished with some Newberry cards or literature. Among others I received some small packages of literature from Mr. King. He mailed me a few. I think those that were mailed me by Mr. King were sent from Detroit. I distributed this literature.

THOMAS FAIR, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Farwell, Clare County, Michigan, and was living there in 1918. I am in the real estate and insurance business, and have an office at Farwell. The defendant Charles A. Reading came to my office before the primaries in 1918 in connection with the senatorial campaign and left a Newberry petition. Nothing was said at that time about paying me for circulating the petition. I circulated the petition. I couldn't tell how many names I got. Afterwards returned it to Mr. Reading by mail. I afterwards received $5 from him; I couldn't tell just how long afterwards. Mr. Reading furnished me with literature to be distributed after the petition and I did so. It was after that that the five dollars was sent to me. It was paid me by check.

CROSS EXAMINATION BY MR. LITTLETON:

During the conversation I had with Mr. Reading at the time he gave me the petition I asked him some questions relative to Mr. Newberry and he told me Mr. Newberry was in the service at that time. That is about the substance of the conversation. I told him I was for Mr. Newberry, and that I was for him because I had a boy in the service.

JOHN LEAVECK, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Menominee, Michigan, and was living there along about July and August, 1918. I know the defendant Roger Andrews and saw him during the primary campaign of 1918. I was on a road grader at the time. Some time during the primary he passed where I was working; there was another man with him, but I could not remember who he was. Mr. Andrews wanted me to take a lot of stuff of different kinds up to Lake Township. I am pretty sure there were some pictures of Mr. Newberry there. I had a lot of stuff which belonged to the county officers. Mr. Andrews was in an automobile. The two got out. They were in a hurry. The conversation was pretty short. I was thinking since that Mr. Andrews put something in my pocket. I had the road graders on the road and some other cars coming, and this was done in a minute or two. He asked me if I would go up there and at last I promised him I would. Well, one of them, I was up on this platform, put a $10 bill in my pocket, kind of in a hurry, right on the side. They were down behind me, you know; there was some other cars coming. I was thinking since it was Mr. Andrews who did that in a hurry.

CROSS EXAMINATION BY MR. LITTLETON:

I could not tell you what date this was on or what month. It was about primary time. I do not know it was much later than that. Now, I was thinking about it afterwards, I made a mistake, when I was down here before. There was somebody trying to make me tell it was right on election day. It was not. It was quite a while before election, and the way I sized it up it must have been, I think it was right on primary morning that I was supposed to be there to put up these pictures and stuff. Mr. Andrews gave me a lot of literature. It was about county candidates. We had a whole bundle of them. I could not tell you how many candidates he gave me literature concerning. I guess we had every one for the whole Republican ticket.

CHARLES H. MURRAY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I lived in Gladstone, Michigan, in the spring of 1918 and up to September of that year. I know Otto Habermann. I was with him one evening before the primary election when we met Judge Yelland. It was about five o'clock in the evening. On that occasion Judge Yelland gave Habermann some money, I could not say for sure how much, and some Newberry pamphlets. He also gave me a $10 bill. He asked Mr. Habermann if he could distribute these pamphlets or get somebody to help distribute these pamphlets. He gave us quite a bunch of these pamphlets, but I cannot state the exact number. There was quite a bundle of them. He wanted to know if I would be in on primary day, and I told him my work was such that I could not tell him. He didn't say in particular what he wanted me to do on primary day.

CROSS EXAMINATION BY MR. LITTLETON:

I am a locomotive engineer and Mr. Habermann was deputy city clerk. I had not known Judd Yelland before this time.

WELBRA N. WILLSON, being sworn as a witness on behalf of the government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit and am a printer. I was living in Detroit, engaged in that same business, in 1918. At that time I was connected with the typographical union, of which I had been a member for 25 years. In 1918 the defendant Guy L. Ingalls was a candidate for city treasurer, and I was interested in his campaign. While campaigning for Mr. Ingalls I was requested by him to do a little work for Mr. Newberry. He asked me to secure some Newberry literature from headquarters. I went there and got it. Before he asked me to do anything for Mr. Newberry he had given me $50. As I understood it that was for his own campaign work. After Mr. Ingalls requested me to do some work for Mr. Newberry he gave me an additional $50 cash. The money was paid to me in cash in the city clerk's office, or city election commission's office, in the city hall, Detroit. No one was present when Mr. Ingalls made the payment to me except Mr. Ingalls and myself. He afterwards gave me a check for $25, making in all $125. There

was $5 more I received from him one day to go out and buy some material for tacking up cards, etc. It was left to my discretion how this $125 was to be expended by me. The last of it was paid me probably within a week before the primary.

CROSS EXAMINATION BY MR. MURFIN:

I knew Mr. Ingalls when he was in the Newspaper business. That was the beginning of my acquaintance with him. We were close friends for many years. In the summer of 1918 he was Deputy City Clerk of Detroit. I learned that he had become a candidate for the office of city treasurer in the spring or early summer of 1918. I became active on his behalf the minute that I heard of it. I didn't lose an opportunity at all to seek votes for Mr. Ingalls for city treasurer. He first advanced me $50 perhaps three weeks before the primary. At that time I had done no work for the Newberry candidacy. He did not talk to me at any time about doing work for Newberry's candidacy. He at no time gave me any money and at the same time asked me to do work for Mr. Newberry's candidacy. He didn't tell me what this money he was giving me was. He said here is something to cover your expenses. During the time I was incurring expenses, I was incurring them primarily through boosting the Ingalls' candidacy. I circulated his nomination petitions. I did not circulate any Newberry petitions.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

It was not specified what the money was for. I had no way. I had no way of knowing whether it was Newberry money or not. I didn't know whose money it was. I naturally supposed it was Mr. Ingalls' money; he gave it to me. I don't know whether he had any Newberry money or not. I don't know whether I thought he was giving me his own money. I didn't know. He first gave me $50 before the Newberry matter was mentioned at all. Then he asked me to distribute some Newberry literature, and asked me to go to Headquarters and get it, and shortly after that he gave me $50 in the city clerk's office. After that I continued campaigning for both Mr. Newberry and Ingalls at the same time. It was my understanding that my friend was paying me for campaigning for Newberry because he said "don't forget 'Ingalls first' all the time."

HOWARD W. ERWIN, being called as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Coopersville and am at present and was in 1918 the publisher of the Coopersville Sun. I carried advertising for the Truman H. Newberry Senatorial Committee. The paper now shown me is a statement of account made out for the advertising carried in my paper. The amount of the advertising was for the primary and preceding the primary election. It was approximately $28. This sum is not set out in the treasurer's report of the Senatorial Committee. The amount that appears there is $16.42. In addition to the advertising, I received $1.25 in addition from the Senatorial Committee for one year's subscription. I think the paper was sent to Paul King in Detroit.

CROSS EXAMINATION BY MR. LITTLETON:

The three items in the statement of account $1.78, $6.72 and $7.92 amounting to $16.32 covered the advertising during the months of May, June and July. The item "August—99 inches, $11.58" covered August advertising. The check for the August item of $11.58 would have been received after the August advertising without doubt. I do not know how late in September they sent it in. The item in the report, Coopersville Sun, is $16.42. The next item of August was very likely sent in undoubtedly in September. Inasmuch as the first three items on my statement are practically the same as the amount appearing in this statement of Mr. Blair's that is the difference being ten cents, one $16.32 and the other $16.42. I think it is very probable that I received my remittance for the August payment after, or about the middle of September, and received it by draft, but I have no recollection on the subject.

NEIL G. BERNARD, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Benton Harbor, and I am a printer. In 1918 the defendant A. H. Burger of Benton Harbor left four Newberry nominating petitions with me. He asked me if I thought I could get those petitions in the factories, and I told him I knew four factories I could place them in, petitions and literature. I did so. He said whatever the expense was he would pay it. I think the first money he gave me was $20, then $10, and then $10, making in all $40. The literature that I was furnished with was in behalf of Mr. Newberry, and the petitions were for Mr. Newberry. The petitions were afterwards brought back to

me and I returned them to Mr. Burger in person. The first $20 was handed to me in currency. I think it was in two $10 bills. Two other $10 payments were also made in his office when he and I were alone. I met Paul King at the banquet of the House of David.

CROSS EXAMINATION BY MR. RIFORD:

I have known Mr. Burger and have been actively engaged in politics in Benton Harbor for some time. The first I saw of Mr. Burger was on the street. We went in the Battlement Drug Store and he asked if I thought I could get the petitions in these factories, and I told him yes, and I did as a matter of fact. I spent $10 of the $40 for having a poll list made of the city of Benton Harbor. I returned the list to Mr. Burger after I had received it.

PATRICK J. CORBETT, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Kipling, Delta County, Michigan, and was living there in 1918. I am acquainted with the Defendant Henry Dotsch and Judd Yelland. Some time in August, 1918, before the primaries, I had a conversation with Henry Dotsch. He spoke about the election of Mr. Newberry, and he asked me if I was in his favor. I told him I thought I was, and he shoved me five dollars, put it into my hands. I told him I didn't need it. He said "Take it." In that way I kept it. We were on our way to the club house. When we got there he threw some literature which he had with him on the pool table. I think he bought a cigar and talked a few minutes and went out. I do not recollect just what he said. This club house that I speak of was the club house for employees of the Cleveland Cliffs Iron Company. Mr. Dotsch was not in the employ of that concern, and did not have access to the club house except some member would take him there. When he slipped the money into my hand I told him I didn't want it. He told me to take it. He said it ain't mine. He did not ask me to do anything more than to peddle this literature that was thrown around. He did not say anything at all about working for Mr. Newberry. I didn't peddle any literature; I left the literature on the pool table and cigar case in the club house.

CROSS EXAMINATION BY MR. LITTLETON:

I am steward of this club house of which I have been speak-

ing. This literature was thrown on the pool table where the men who came in could get it or see it. The literature did not relate to anything else except the Newberry Campaign that I remember of. I remember that on the occasion when Mr. Dotsch gave me the $5, he threw some Newberry literature on the table and also left some on the cigar case. I now recollect that he handed me a bunch of literature as he put some on the table and on the cigar case, and it was wrapped up or bound together in some fashion. I remember he asked me to hand out the literature to the men who came in the club, but it was not then that he gave me the $5. He gave me the $5 on the way over. I now remember that after he had given me the literature and after he put it on the show case, and after he put it on the table, it was then he gave me the $5 and told me it was for my work in distributing and circulating the literature. I understood the money was paid to me for distributing literature.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

I did not understand that I was to peddle the literature. I was just to leave it on the pool table and cigar case for the men if they wanted it.

RICHARD BARRY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Kipling and am a chemist. In 1918 I was supervisor of Brampton Township. I am an employee of the Cleveland Cliffs Iron Company. I know the defendant Henry Dotsch. Before the primary in 1918, on the road towards my home, he was traveling with an automobile I believe, I couldn't say for sure who was with him, but I think Mr. Yelland was, although I am not certain, Mr. Dotsch came over and handed me some literature and asked me if I would distribute it around the mill. I think he meant the plant, but he called it the mill. He stuck something into my pocket and turned around and walked away. He didn't state what the literature was. I took it into the house and intended to read it over, but I didn't do it. It concerned Mr. Newberry. After I got into the house I saw what he put into my pocket was a $5 bill. I did not distribute any literature.

CROSS EXAMINATION BY MR. LITTLETON:

I think I have known Mr. Dotsch since I was a boy. At this time I was employed in the charcoal iron furnace of the Cleve-

land Cliffs Iron Company. There were about two hundred men employed in the plant. When Mr. Dotsch met me he said he wanted me to distribute this literature around the mill. I don't know whether I said anything at all. He was in very much of a hurry and just spoke a few minutes to me. I don't think I made any reply. The conversation only lasted about a minute. When the literature was given me it was in the shape of a loose folded package.

GEORGE HARVEY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Escanaba, Michigan, and am a locomotive engineer of the Chicago & Northwestern road. In 1918, I don't know whether it was before the primary or after, Mr. Dotsch and I were out driving one evening, and as I got out of the car he stated to me "are you going to be in town election day"? and I said I thought I would; he says "I think there will be some Newberry money" or words to that effect. He did not say, nor had he at any previous time said just what his connection with the Newberry campaign was.

PAT LEAVECK, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Daggett, Menominee County. My business is farming and lumbering. I have known the defendant Robert Tetro quite a few years. He lives in Stevenson, which is about six miles from my home. In 1918 he called me by telephone, asked me if I was coming to Stevenson. I told him I didn't think I would. He says, "you better come down here, we have got some good stuff to send up to Daggett." I went to Stevenson, but didn't get to see him. I saw him about three weeks afterwards. He then gave me $5.

CROSS EXAMINATION BY MR. LITTLETON:

I must have known Mr. Tetro for 30 years. I had not been active in politics with him previously, or taken part in politics with him that I know of. The telephone conversation to which I have referred occurred two or three nights before the general election. I am not positive who I saw or who gave me the bundle of literature that was to be delivered to Daggett on the

morning of the election. I also got a bunch of literature over at the printing office—instruction ballots for the Menominee County ticket. This literature related to Newberry and two or three different candidates around on the Republican ticket, and also the Menominee County Republican ticket. I took the whole bunch up to Daggett from Stevenson. I got some of it from the printing office and the rest at Tetroe's office. There were a good many at Daggett that wanted these cards and stuff, and I took a lot of the instruction ballots right in the town hall to the election board and delivered them, which I was instructed to do by Mr. Wisner, who was the editor of the paper there. I distributed some of them around. There were different men there who wanted some cards and instruction ballots and I delivered them as I was instructed to do. Mr. Tetro gave me the $5 about three weeks afterwards.

JOHN K. OLSEN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Stonington, Bay de Noc Township, Delta County. In the 1918 primary campaign the defendant Judd Yelland asked me if I was working for Newberry—or he asked me who I was supporting for Congress. He didn't ask me to do anything in particular. He sent me literature after I talked with him. I nailed it up in different places in the township. One place in particular was the warehouse where all farmers going to Escanaba have to cross by boat. I also nailed up at the cross roads three or four different places in the township. There was a letter sent to me with Yelland's envelope and paper, that is, Judge of Probate stationery, with $10 in it. This was different kinds of literature for the election, pictures; some of it Newberry literature. This was during both the primary and the election. I got the $10 some time during the fall.

CROSS EXAMINATION BY MR. LITTLETON:

I am quite sure I first talked with Judd Yelland about any election or Newberry in the election, before the primary. The conversation took place in his office in the court house in Escanaba. He asked me who I was supporting for Congress. I told him Newberry, and he said something to the effect "that is good", or something like that. That is all that I can remember in regard to that. I cannot remember that anything in par-

ticular was said at that time about distributing literature. The literature which I afterwards received related to others than Mr. Newberry; some came before the primary and I am quite sure I got some before the election. I nailed up the big posters, and there were some small books and cards with Newberry's picture on that I gave to the farmers when I would meet them. I remember of receiving additional literature after the primary. That related, besides Mr. Newberry, to the state officers who were running for office on the Republican ticket. I also distributed that, and I posted some of it. The literature that I posted related to the whole Republican ticket.

GEORGE H. GLASURE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Standish, Arenac County. I was secretary of the Newberry Committee in Arenac County. The defendant Judge J. W. Dunn was the chairman. I made some drives in connection with Mr. Newberry's senatorial campaign in the taking of literature to stores throughout the county. I made no drives outside of that. I used my own car on one occasion in making a drive. I had some expense in the purchase of gasoline. I hired an automobile on other occasions but not to exceed twice. I think I made three trips altogether. I submitted a bill of expenses in connection with what I had done, to Judge Dunn. It was approximately $15 or $16. Mr. Dunn himself paid me that money. Mr. B. F. Reed, of Bay City, field agent of the Newberry organization, had been in our county prior to the time I became secretary. At that time there was a meeting between Mr. Reed, Mr. Dunn and myself. That occurred early in the campaign of 1918. I presume this literature which I distributed came from the Newberry headquarters at Detroit. It was addressed to me. I am assistant cashier of the state bank. I lived in Arenac county thirty-five years. Standish is the county seat. The population of the county is in the neighborhood of ten thousand. I received a letter from Newberry after the primaries.

CROSS EXAMINATION BY MR. LITTLETON:

I have known Judge Dunn from my early boyhood. He is Judge of the Probate Court. I first talked in reference to taking a part in the Newberry campaign, with Mr. Reed and Judge Dunn. It was agreed at that meeting I should be Secretary of the Newberry committee and Judge Dunn should be chairman.

We had no headquarters. The literature was received both by Judge Dunn and myself. It was received on different occasions. We had no political meetings of any kind at Standish in regard to the Newberry candidacy. I had no correspondence with any of the Detroit representatives in the Newberry senatorial committee, only just a matter of letters that I received from some of the officers in charge I presume. I received letters from Mr. King. I did not preserve any of the correspondence. The bill of $15 or $16 which I rendered to Judge Dunn covered the items of traveling expenses and such, gasoline and hotel expenses, meals.

O. V. LINDEN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Escanaba, Michigan, and was living there during the entire year 1918. I was publishing a Swedish newspaper and ran the regular advertisements of the Newberry Senatorial Committee in my paper in Swedish. The advertising was sent me from Detroit by, I suppose, the Newberry Senatorial Committee. The total that I got out of it for the three months was $64.80. That was paid to me from Detroit. About primary time Judd Yelland called at my office and gave me $50.

CROSS EXAMINATION BY MR. LITTLETON:

I have run a newspaper since the spring of either 1915 or 1916; I think it was 1916. The name of the paper, in Swedish, is (spelling it) Medborgaren, meaning Citizen in English. I render my bills in the same name. My name is on the bill too as publisher. In making out a bill, I make it in the Swedish name of the paper. I had known Judge Yelland since he came to Escanaba. I think I was Clerk of the Circuit Court at the time, if I am not mistaken. That is something like twenty-five years ago. He has been for years the probate judge there. Mr. Yelland did not speak to me about the election at all that I can remember. I took over the paper in 1916, and there was an election that year, and Mr. Yelland came into my office one day and told me it had been customary for the Republican County Committee to pay this paper $50. Then in 1918 he came in and said "here is the customary $50 for the paper and gave it to me. I accepted the $50 as being a payment for and on account of the whole Republican ticket.

WILLIAM LYNCH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Mt. Forest, Bay County. I am a farmer.

I am supervisor and treasurer of the township of Mt. Forest. In 1918 I was supervisor. I know Richard Fletcher. I had a conversation with him during 1918 with reference to Truman H. Newberry. As supervisor I had something to do with the distribution of gravel throughout the township. The Board of Supervisors makes the appropriations. Mr. Fletcher was then one of the Stone Road Commissioners of the County. In 1918 he asked me to support Mr. Newberry. In regard to the stone roads, he says, "You always holler for stone roads; if you want any of my support for stone roads you will have to get out and hustle for Mr. Newberry." The Stone Road Board has the authority of the appropriation. Mr. Fletcher said we would not get our appropriation if we would not support Mr. Newberry. We already had our appropriation for the stone roads up there. We had the appropriation that is designated by the Board of Supervisors to spend this money on the roads.

CROSS EXAMINATION BY MR. LITTLETON:

As a member of the Board of Supervisors I was one who voted on these appropriations. After we voted our appropriations for the roads, the State Road Commissioners, who were a county board, had the disbursing or spending of the money which we appropriated. The County Board of Road Stone Commissioners consisted of five members—Mr. Fletcher, Mr. Chatfield, Mr. Campbell, Mr. Robbins and Mr. McCauley. This Stone Road Board had the question of determining where the appropriations which our Board of Supervisors made should be applied—where the work should be done. I was not a member of the Stone Road Board and Mr. Fletcher was not a member of our Supervisors' Board. I had this conversation with Mr. Fletcher in the latter part of October, prior to the fall election. I could not recall the date. At that time there were two tickets running in the county, that is, the Republican and Democratic ticket. I was elected in 1918 on the Republican ticket. I remember a man by the name of Morton running for Treasurer of Bay County. Mr. Fletcher and I had a talk about Mr. Morton, at the same time in October that I had this talk in regard to Mr. Newberry. No one else was present when Mr. Fletcher and I had this conversation. In reply to his request for my support for Mr. New-

berry, I told him I was against Mr. Newberry. I was not interested in any other capacity in Stone Roads except the appropriation as Supervisor. I was trying to get stone roads in my part of the county, and other supervisors were engaged in getting appropriations for their part of the county.

ERNEST A. STOWE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Grand Rapids and am the publisher of the Michigan Tradesman. I was publishing that paper in 1918 and carried advertising for the Newberry senatorial committee in June, July and August. The amount of the advertising under my contract was $276.88, for which I received payment from the Newberry Senatorial Committee, 310 Ford Building, Detroit. It appears that the amount reported as having been paid me in Mr. Blair's report of the expenditures of the Senatorial Committee was $216.88.

CROSS EXAMINATION BY MR. MURFIN:

$216.88 was paid by September 7th and the balance was paid September 11th.

ARTHUR C. PFANDER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Battle Creek and am in the newspaper business. The name of my paper is the Enquirer and Evening News. The Enquirer News Company publishes it. I was connected with that company in 1918. We carried some advertising for the Newberry Senatorial Committee. The total amount paid us for advertising preceding the primaries of August 27th was $141.30. The $58.50 reported in the report of expenditures by the Senatorial Committee was just the amount of our August bill. The balance, as far as I know, was not reported.

CROSS EXAMINATION BY MR. MURFIN:

September 10th, I believe, was the date that $58.50 was paid. I find that on further examination of the report of expenditures of the committee, the Morning Enquirer, which is our morning edition, is credited with $82.80. That item on the report was not shown me when I was being examined by the agents of the departments. They showed me the one item $58.50 and not

the one with the $82.80. Referring to our ledger, I now find that on July 12th we received $42.60 that was in payment of June's advertising; on August 13th we received $40.20, on September 10th we received $58.50.

THE COURT: It is evident that the two items which are contained in the report balance the amount that he said was the amount of his bill.

JOSEPH J. JOURDAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit, Michigan, and am the accountant of the Polonial Publishing Company, which publishes a Polish paper called the Record—C-i-g-i-e-y. The company did some advertising before the 1918 primary election for the Truman H. Newberry Senatorial Committee, for which $387 was paid. The report of the expenses of the Newberry Senatorial Committee shows $268 as having been paid to our company. We, in fact, received $326.56 from the Senatorial Committee; that was for October and November advertising. The last payments made to us by the Senatorial Committee were in November, one credited November 6th and another November 4th. There were two payments amounting to $326.56 credited to the Republican State Central Committee and three payments amounting to $387.00 to Newberry personally. It does not show on the records here that any payments were made to us by the Newberry Senatorial Committee. There is $387 charged to Newberry personally, and the other two advertisements of $326.56 is charged to the Republican State Central Committee.

CROSS EXAMINATION BY MR. LITTLETON:

This was not charged to Truman Newberry to Phillip Newberry. That is the way they have got it here. Phillip Newberry.

MR. LITTLETON (to Eichhorn): Of course, that is not right.

MR. EICHHORN: No.

MR. LITTLETON: You do not claim it is anything except the Senatorial Committee?

MR. EICHHORN: Not for a moment.

THE WITNESS (Continuing): According to the records of the total bill of $387 there was $134 paid in July and $134 in August 13th, which total $268. I noticed on Mr. Blair's report

the item Polonial Publishing Company $268. According to the records here, the next payment from the Senatorial Committee was received on the 12th of November; I mean the $119, which belonged in the bill up to the last of August was not paid until the 12th of November. I do not know by whom it was paid. The items on that sheet after August appear to be charged to the Republican State Central Committee, 310 Ford Building; October 28th, $190.98 and November 4th $135.50. I suppose those were paid by the Republican State Central Committee; it is credited to them as paid by them.

ARTHUR A. THROOP, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 2236 James Avenue, Grand Rapids. I am district manager of the Maccabees and was so employed in 1918. I was then living at 129 Murray Street, Saginaw. I was acquainted with the defendant Mark T. McKee in 1918. In June of that year I received the following telegram from him: "Detroit, Mich. 133P. M. June 23, 1918. Arthur Throop, Saginaw, Michigan. Can you meet me here tomorrow my expense. Answer, Mark T. McKee." I went to Detroit following receipt of that message, on Monday, June 24. I did not find Mr. McKee there. I saw Miss Gannon and Mr. MacMurray. Mr. Paul H. King was communicated with from the office by telephone, after which I went to Mr. Newberry's headquarters in the Ford Building, where I found Mr. King. Mr. King said to me that I had been suggested to him by Mr. McKee on the Sunday previous—that would be the 23rd—as a good man to organize the fraternal societies in Michigan in the Newberry interests; and I said to him that I did not think that I would mix with politics that year, as it had been only a detriment to my business in the past and I could not afford to do those things; and in the conversation with him he said that the object was to line up the fraternals. He did not know how I would do it, but that would be up to me, and said that my expenses would be paid and I would be paid a reasonable salary, and I told him that I would think it over and let him know later. He asked me what my expenses to Detroit were and I told him and he paid me. Nothing was said in that conversation about what my compensation would be if I undertook that work, only that I would receive my expenses and would be amply paid for my work.

GEORGE D. ROMEIKE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Mountain Lakes, New Jersey. In 1918 I was located in New York City and engaged in the press clipping business connected with the concern of Henry Romeike. I have the records of the concern with me. Referring to those records, I now produce certain communications with reference to press clippings for Mr. Truman H. Newberry.

The papers produced by the witness, which had been previously marked Government's Exhibits Nos. 79, 80, 81, 82, 83, 84 and 84-A, respectively, were here offered in evidence.

MR. LITTLETON: The objection is made to the introduction of these letters upon the ground of their utter immateriality. There is no point made that the letters were not the letters of Mr. Newberry or the men who signed them. The point is that this is a continuation of a practice which obtained for years prior to the election.

THE COURT: They will be received.

MR. LITTLETON: An exception.

The papers referred to by the witness were here read in evidence, as follows:

GOVERNMENT'S EXHIBIT NO. 79

NEWBERRY ESTATE
1224 Ford Building,
Detroit, Michigan.

Truman H. Newberry
John S. Newberry
Frederick P. Smith
Agent.

Henry Romeike, Inc.
106 Seventh Avenue,
New York, N.Y.

February 19, 1918.

Gentlemen:

Please enter the subscription of Lieut.Commander Truman H. Newberry, Hotel Gotham, Fifth Ave., & 55th St., New York, N.Y., to your service under the same terms and conditions as governed his former subscription with you.

Very truly yours,

FPS.L.

Fred P. Smith.

GOVERNMENT'S EXHIBIT NO.80

OFFICE OF THE COMMANDANT
THIRD NAVAL DISTRICT
280 Broadway, New York,N.Y.

Henry Romeike, Inc.
106 Seventh Avenue,
New York City, N.Y.

July 31, 1918.

Gentlemen:

Please change my address from

Lieut. Commdr. Truman H. Newberry,
Hotel Gotham, New York City,
to
Lieut. Commdr. Truman H. Newberry,
Hotel Biltmore, New York City.

Very truly yours,
Truman H. Newberry.

GOVERNMENT'S EXHIBIT 81

March 7, 1918.

Henry Romeike, Inc.
106 Seventh Avenue,
New York, N.Y.

Gentlemen:

Answering yours of the 5th, all clippings for Lieut. Commander Truman H. Newberry should be sent to him c/o Hotel Gotham, New York.

Very truly yours,

FPS.L. Fred P. Smith.

GOVERNMENT'S EXHIBIT 82.

October 8, 1918.

Henry Romeike, Inc.
106 Seventh Avenue,
New York City, N.Y.

Gentlemen:

Upon receipt of this notice, please discontinue sending me press clippings.

Very truly yours,
Truman H. Newberry,
Lieutenant Commander, USNRF.

GOVERNMENT'S EXHIBIT 83.

November 6, 1918.

Gentlemen:

I desire to renew my subscription to your clipping bureau and beginning at once wish you would send clippings on the following subject:

TRUMAN H. NEWBERRY

to the following address:

LIEUT.COMMANDER TRUMAN H. NEWBERRY.
HOTEL GOTHAM, NEW YORK CITY.

Very truly yours,

Truman H. Newberry.

Henry Romeike, Inc.
106 Seventh Avenue,
New York City.

GOVERNMENT'S EXHIBIT 84.

March 1, 1918.

Henry Romeike, Inc.
106 Seventh Avenue,
New York, N.Y.

Gentlemen:

Please enter the order of Mr.Frederick Cody, 149 Broadway, New York, N.Y. for duplicate clippings covering the items which are forwarded under Lieut. Commander Truman H.Newberry's subscription of February 19th. You will please render bill for these clippings to Lieut. Commander Truman H. Newberry, 1224 Ford Bldg., Detroit, Michigan.

Very truly yours.

FPS.L. Fred P. Smith.

GOVERNMENT'S EXHIBIT NO. 84-A.

August 19, 1918.

Henry Romeike, Inc.
106 Seventh Avenue,
New York City, N.Y.

Gentlemen:

On September 1st, 1918, please discontinue the furnishing of press clippings to Mr.Fred Cody, your bill numbered 9973.

Very truly yours,

Truman H. Newberry,
Lieutenant Commander, USNRF.

THE WITNESS (continuing): Our concern furnished clippings under these orders as communicated in the letters. I have no way of definitely stating all the papers that were covered by the clippings furnished. We covered Michigan papers to some extent. On June 18, 1918, Thomas P. Phillips, on behalf of the Newberry organization, placed two additional orders; one of them continued until September the 9th and the other until October the 14th ,1918. The order to continue to September the 9th covered clippings referring to Mr. Truman H. Newberry and the other clippings referring to Mr. Henry Ford, editorial comment only.

Q. If you received payments for the service, you may tell the jury what amounts you received and from whom and the dates?

MR. LITTLETON: Wait just a moment. As to the ones relating to orders made by Mr. Phillips for the senatorial committee, I do not make any objection, but as to payments for the others which have been referred to in the letters which were personal and which cannot be said to be incidental to spending money or arranging to spend money to procure a nomination or election, I object, if your Honor please.

THE COURT: The testimony will be received.

MR. LITTLETON: An exception.

A. In 1918 we received checks on the personal service to Lieutenant Commander Truman H. Newberry, May 17th $4.88; July 15th, $11.88; August 30th, $4.16; September 21, $7.12; October 17th, $19.44; October 24th, $7.16. That was for service of 1918 from February to October inclusive. Then service started again in November of 1918 and for the balance of the year the accounts were for the month of November $38.52 and December $13.32; the November account was paid on December 16th, $38.52, and the December account paid January 15th, $13.32.

Service rendered Mr. Frederick Cody, 149 Broadway, New York City, which were billed to Lieutenant Commander Truman H. Newberry were paid May 17th $3.44, July 15th $10.24, June 17th $8.81—that is July 17th; August 30th $5.76 and September 21st, $6.20. Service rendered to Mr. Thomas P. Phillips, 310 Ford Building, Detroit, Michigan, the service referring to Lieutenant Commander Newberry, the payments were July 15th $6.56, August 23rd $7.32, and January 18th, 1919, $7.12.

Service rendered to Mr. Thomas P. Phillips in connection with his order on Henry Ford, the payments were August 14th, $18.96; January 18th, 1919 $40.48. I guess that is all for the year 1918.

Press clipping service in general consists of reading the newspapers and clipping from them references to subjects for which the subscriber has requested us to clip. In this particular case, the service rendered Mr. Newberry was for clippings referring to himself personally: the service rendered Mr. Cody was for a complete set of clippings referring to Mr. Newberry, and the service rendered to Mr. Thomas P. Phillips was for clippings referring to Mr. Newberry and Mr. Ford. The services, or the subscriber in those instances, the entire service which we were able to give without restrictions, and that meant all the clippings from each source that we could obtain them. When these items are found in any of the papers that come under our observation, they are clipped from the papers and mailed to the subscribers, attached to slips giving the name of the paper, the place where it is published, and the date of publication. The clippings under the service rendered to Mr. Newberry personally under that order, to the amount I describe, were mailed to him at the address that he gave us. In the case of Mr. Cody, the duplications were sent to him at some address given us, and the ones relating to the editorials were sent to Mr. Thomas P. Phillips, at the Ford Building, Detroit. The bill for the clippings furnished Mr. Phillips were rendered to Mr. Phillips personally. The payment was made at two different times: I think they came from different places.

The letters marked Government's Exhibits Nos. 120 and 121, respectively, now placed in my hands, were received by my concern with reference to the service received under these orders.

The papers referred to by the witness were offered in evidence:

MR. LITTLETON: They are objected to on the grounds already urged as to the other exhibits, and upon the further ground that they appear to be each one of them after January, 1919.

THE COURT: They may be received.

MR. LITTLETON: An exception.

The papers referred to were read to the jury as follows:

GOVERNMENT'S EXHIBIT 120

Newberry Estate,
1224 Ford Building,
Detroit, Michigan.

Truman H. Newberry
John S. Newberry,
Frederick P. Smith,
Agent.

January 16,1919.

Henry Romeike, Inc.
106 Seventh Avenue,
New York, New York.

Gentlemen:

Herewith please find check for $47.60 covering clippings to Thomas P. Phillips. If you have not already done so, will you please see that these subscriptions are cancelled, as this settlement is in full to January 2nd.

Very truly yours,

FPS-L. Fred P. Smith.

GOVERNMENT'S EXHIBIT 121.

Truman H. Newberry
For Republican Nomination for United States Senator,
310 Ford Building, Detroit.

September 6, 1918.

Henry Romeike, Inc.
106 Seventh Avenue,
New York City.

Gentlemen:

We are in receipt of your statement dated August 31 which will be passed for payment.

Please discontinue the clippings for the Newberry Senatorial Committee on receipt of this letter.

Very truly yours,

TPP:KM. Thomas P. Phillips.

CROSS-EXAMINATION BY MR. LITTLETON:

We have what is known as a Clipping Bureau. We subscribe for quite a good many newspapers and periodicals. Our business consists of having people subscribe for the purpose of receiving or getting such clippings referring to them, or to any subject which they wish, and for the payment of their subscription

we make these clippings from these newspapers and send them to them. We have about five thousand individual subscribers in our bureau. From the records which I saw, Mr. Newberry has been a subscriber at least as far back as 1909. He is not at present.

CLAUDE WALKINSHAW, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I am a resident of Battle Creek, Calhoun County, Michigan, and was living there in 1918. I am in the real estate business. I was Secretary of the Calhoun County Newberry organization, preceding the primary of 1918. The defendant Thomas Bigger was the first person who spoke to me about that place. He asked me if I would accept the position, and told me who the chairman and treasurer would be, and we were supposed to know what to do. He said Jim Mustard would be chairman and John Sallow treasurer. I was to receive compensation at the rate of $37.50 a week. I think Mr. Bigger said that to me. Nothing was said at that time about what funds would be available. After that conversation I proceeded to act as secretary. I did very little in connection with the petitions. I think I received a few and mailed them to Detroit, but very little. I met Mr. Bigger a number of different times after I had done some work—after the petitions were filed. I met him on the street one time and he told me he had deposited $200 to be used by the committee for the Newberry campaign. I received my salary of $37.50 a week for about three weeks time as I figured it out; about $165 in all was spent of the $200. He told me after I had quit that he had deposited another $100.

CROSS-EXAMINATION BY MR. LITTLETON:

After the deposit in the bank by Mr. Bigger, it was checked out by Mr. Mustard. He wrote the checks, if there was a check written, which I think there was. I was a candidate that year for nomination for county clerk, running in the Republican primary. I do not know what was done with the unexpended balance in the hands of the committee.

GUS L. STEIN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Kalamazoo, Michigan, and was living there in 1918.

I was then clerk of the municipal justice court, and still hold that position. From June 1918 until June 1919 I was Department Commander for Michigan of the Spanish-American War Veterans, elected at Saginaw in 1918. Shortly after I was elected Department Commander, in the latter part of July or first of August 1918, I received a telephone call from the defendant Charles Farrell in regard to doing some work in the Newberry campaign. He merely called up and asked me if I would be willing to do some work. I don't think anything was said about compensation at the time. Perhaps there might have been. I told him I didn't think I would care to receive anything. I did undertake to do some work. I put in approximately seven days I should think, circulating amongst the Spanish War Veterans and some of the soldiers around the country in general in behalf of Senator Newberry. After I had done that work I think Mr. Farrell asked me what I should receive, and I left it up to him largely. He did not pay me any money at that time. Later he paid me at the rate of $5 a day, $35 in all. I saw the defendant William Rice of Grand Rapids several times before the primary and after I was elected Department Commander. He saw me at Kalamazoo at one time; as I recall he sent me a card and we had a little meeting one evening in the Burdick Hotel, and perhaps four or five were present, and we talked over matters in general and had a little light lunch. After that, at the request of Mr. Rice, I secured from the different Commanders of the Camps around the state a list of their membership. These I mailed to Mr. Rice. I think they were used to send out Bolo Club literature. I received no compensation for this work. Certain expenses were incurred in the way of postage, stationery and telegrams, approximately $15 to $20, for which I was reimbursed by Mr. Rice.

CROSS-EXAMINATION BY MR. LITTLETON:

I have known Mr. Farrell perhaps ten or fifteen years, and had been associated with him prior times in political matters. I had known Mr. Rice perhaps six or seven years. I knew that Mr. Newberry was a veteran of the Spanish-American War. I had declared myself in favor of Mr. Newberry before I saw Mr. Farrell. I know there was an organization known as the Bolo Club. I was a member of it I think at that time, and had been as early as 1917. During the seven days that I was engaged in the 1918 campaign I spent some of my time distributing literature in Kalamazoo and elsewhere.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

This Bolo Club that existed in 1917 was a start towards the Bolo Club of Michigan that was afterwards organized in 1918. The first Bolo Club was not very active around Kalamazoo.

THOMAS F. DOWNEY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit and was living there in 1918. My occupation is real estate. I have known the defendant, Dick Fletcher, since 1907. I met him and had a conversation with him during the Newberry campaign in 1918. I was glad to see him, and he was glad to see me. He asked me who I was out for and I told him, and he wanted to know if I could see my way clear to do something for Mr. Newberry, and I told him no; that I had made up my mind who I was going to vote for. He said that if I could see my way clear to do something for Newberry I would be compensated for my services.

CROSS-EXAMINATION BY MR. LITTLETON:

I told Mr. Fletcher I was for Mr. Ford. I did not tell him I had been working for Mr. Ford. I was not active in the campaign. I would rather think this was about two weeks before the primaries. Before this time Mr. Fletcher and I had been associated in politics and had done work together in previous years in Bay City, where I had lived. Besides telling Mr. Fletcher that I was for Mr. Ford, I believe I told him that I was a Supervisor of Election located in the Second Precinct of the Third Ward.

GEORGE A. TOEPFER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Detroit and am advertising man for the Abend Post, a German daily paper. During the 1918 primary the Abend Post carried Newberry readers, no display advertisement; only readers written articles marked as advertising. The dates upon which we ran those advertisements were July 31, August 2, 4, 6, 9, 11, 13, 16, 18, 20, 23, 25, 26 and September 1st. Our total bill for the Newberry advertising in the primary was $200. I originally figured it at $227, but he got a discount of $27. I was shown this morning a certified copy of the Blair Report. I

did not discover the item there. I looked through the list and I could not find it. I wrote the copy of our advertising matter and I obtained some suggestions from Mr. Milton Oakman, whom I know. I have charge of the advertising department. It was my own doing; I solicited the advertisement from Mr. Oakman. He told me to put the advertising after I had seen him different times. I received pay for that advertising from Mr. Oakman. During all the time I have spoken about, my paper was published in German, and those advertisements of Mr. Newberry were published in German.

CROSS-EXAMINATION BY MR. MURFIN:

Mr. Oakman is the only one of the Newberry Senatorial Committee that I talked to. At the same time we ran this Newberry advertisement, at Mr. Oakman's request, we also ran Mr. Oakman's advertisement in his campaign. He ran for county clerk, and naturally some of those advertisements might have run at the same time. This advertising was not charged to the Newberry Committee, but to Mr. Oakman. I received the cash in our office from Milton Oakman and turned it over to the cashier; nothing from the Senatorial Committee. This $200 does not include Milton Oakman. That item is for the Newberry campaign only.

CLINTON H. POWLEY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived at Bronson, Michigan, 19 years and am engaged in the newspaper business. The name of my paper is the Bronson Journal. My paper carried the Newberry advertisements in the primary campaign of 1918 from May 31st, and then through June and July up to and including August 23rd; something each week. I had an arrangement by which I was to receive ten cents an inch. I submitted my bill, which was $23.80, after August 23rd. I have looked through Mr. Blair's report of receipts and expenditures to see whether or not my paper is mentioned. There is one item "The Journal," $10.60," on that list. I had not submitted a bill for $10.60 at any time. If my paper is referred to it is "The Journal, $10.60." The amount I actually did receive was $23.80, and that I received November 13th, 1918. I suppose I received it from the Newberry headquarters; I think I received it by check from the Newberry Senatorial Committee.

CROSS-EXAMINATION BY MR. LITTLETON:

I do not remember whether it was a draft or not. It was a check of some kind. I remember I received something in the shape of payment from Detroit. That is all I remember I remember that I got a telegram from the Newberry Senatorial Committee before September 6th, when the Blair report was filed, asking me to send in my bill for the advertising.

RE-DIRECT EXAMINATION BY MR. DAILEY:

I do not remember the date of that telegram. They phoned me the telegram and never gave me a copy. I do not know it was in September. I remember getting a telegram and that is all.

RE-CROSS-EXAMINATION BY MR. LITTLETON:

The telegram was urging me to send in my bill.

JOHN B. MULDER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Holland, Michigan, where I publish the weekly newspaper called De Grondwet, published in the Holland language. I had an arrangement by which my paper published the Newberry advertising during the primary of 1918. I carried the advertising in connection with the Newberry Senatorial headquarters at Detroit from June 2nd until August 26th. I think my total bill for advertising with the Detroit Headquarters was $160.80. It was all paid through the Detroit Headquarters. A part of this advertising was sent me by Mr. Hopkins. Mr. Floyd, of the Grand Rapids Headquarters, had an arrangement for "Readers." I talked with Mr. Floyd in person. He requested me to translate matter into the Holland language and publish it. The English version that I would translate was handed to me in the Grand Rapids Headquarters through Mr. Floyd; either by Floyd or at his direction. This reading matter which I call "Readers" amounted to about sixty odd dollars. I have looked through the report filed by Mr. Blair twice, but I could not find any name, or the name of the paper. I received this $160.80 in different payments. I think one or two bills were sent to the Committee just before the primaries. I received one payment in August, the balance of the payments in September.

CROSS-EXAMINATION BY MR. LITTLETON:

Turning to my books now shown me and to the account about

which I have been testifying, I find I kept this advertising in two separate accounts, one under the heading "Newberry Senatorial Committee, per Hopkins, Detroit," and the other "Newberry-Floyd." That is sundry accounts, that is why we did that. There is an entry here "August 27, by cash, $68." The next item is September 2nd, $8.40, the next one September 16th, $6; that makes up the $80.40 which appears under the heading "Newberry Senatorial Committee per Hopkins." I received payment of the Floyd account, by check through the Detroit Headquarters. That was after the primaries. The amount that Floyd paid me on the book is exactly the amount paid me under the item. $80.40 is there on the Hopkins account and $80.40 is there on the Floyd account. That is a coincidence. You can see that by the different items charged there. It just happened that way. All the Floyd items were paid by check.

WILLIAM E. MADDIGAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Hancock, Houghton County, Michigan. I am the manager of the Evening Copper Journal and held that position during the year 1918. I had an arrangement with the Newberry Senatorial Committee of Detroit to carry the newspaper display advertising for Mr. Newberry during the primary campaign of 1918 at twenty-five cents an inch. My paper published this advertising between June 1st and August 24th. The total bill was $49.13. I do not remember when we billed the committee. We bill the first of each month, but I could not swear as to whether there was any missed, during any particular month or not. We received this $49.13 November 14th, 1918. I have looked through Mr. Blair's statement of receipts and expenditures and I did not see that my paper and this amount were included.

MR. MURFIN: "We will concede it is not there."

CROSS-EXAMINATION BY MR. LITTLETON:

There were a great many newspapers and publications entered on Mr. Blair's report. I think there were seven pages of them. Our bookkeeper should mail each advertiser or customer a bill on the first of the month. I guess we have practically three thousand accounts. I could not state whether they were all sent or some would be missed. I do not know, as a matter of fact, whether these were sent before or after the primary. I re-

member getting a telegram from Detroit urging me to send in a bill and calling my attention to it. It was dated September 6th at Detroit.

RE-DIRECT EXAMINATION BY MR. DAILEY:

I do not know from whom this last payment came. We sent the bill to the Truman H. Newberry Senatorial Committee, 310 Ford Building, but I could not recall at this time who signed the check or who sent it to me.

HARVEY L. BURGESS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Hillsdale, Michigan, and publish a newspaper called The Hillsdale Daily News. I had an arrangement with the Truman H. Newberry Senatorial Committee of Detroit to carry their display advertising during the primary of 1918, and we did so from May 23rd to August 24th, at the rate of forty-two cents an inch. The total bill for the four months was $105.20. I cannot swear that our bills were sent monthly but I presume they were. On September 8th we received a telegram, "Kindly rush bill for advertising in full that we may close accounts" (signed) "Newberry Senatorial Committee," and that was taken care of at that time. The letter accompanying the check for the $105.20 was dated November 12th and it was received by us November 13th and entered on the books as November 13th. I have looked through the report of Mr. Blair with reference to receipts and expenditures and I did not find our paper and the amount that I have named are mentioned there.

CROSS-EXAMINATION BY MR. LITTLETON:

I could not swear whether the bills had been actually sent in before September 6th or not. I have the telegram that I just referred to. It is dated Detroit, Michigan, 6:22 P. M., September, and the figure is blurred. I read it eighth.

MR. LITTLETON offered the telegram in connection with the witness' cross-examination, and it was received and passed to the jury.

M. K. SCOTT, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Grand Haven, Ottawa County, Michigan, and am one of the publishers of the daily paper called the Grand Haven

Tribune, which carried the primary advertisements for the Newberry Senatorial Committee in 1918. The June account was $11.20, July account $14, August account $19.80; and the credits were July 16th $11.20, August 24th $14, and November 13th $19.80. I have looked through the report of Mr. Blair filed in this case as an exhibit showing the alleged receipts and expenditures of the Newberry Senatorial Committee to see whether or not our paper was included in the report and the amount for which it was included. I find a statement from the Tribune $11.20.

CROSS-EXAMINATION BY MR. LITTLETON:

I had nothing to do with the sending of the bills for advertisements; I was the editorial man. All I know about when the bills were sent in would be by reference to the sheet which is in front of me. The first bill, for the June account, was $11.20 and that was paid July 16th, 1918, and appears on the report of Mr. Blair. The 24th of August was probably the date of the receipt of the check for $14, but I would not be sure of that. All I go by is this sheet. According to the sheet, the last item of $19.80 was paid on November 13th, but I do not know when that item was sent in. I do not know that a letter or telegram asking that bills be sent in was sent to us.

C. E. BENNETT, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Ironwood, Gogebic County, and am editor of a newspaper called The Ironwood Times, which ran the advertisements for the Newberry Senatorial Committee in June, July and August, 1918, during the primaries of that year. The total amount of the bills at the contract price of twelve and one-half cents an inch was $29.47. We sent in our bills for that advertising about the middle of September. We had sent in no bill before that. We received pay of $29.47 from the Newberry Senatorial Committee some time the latter part of September, possibly the first of October. I have examined Mr. Blair's report for the purpose of seeing whether or not our paper is mentioned. I could not find it; this amount of $29.47 or any part of it, was not shown, so far as I could see.

CROSS-EXAMINATION BY MR. LITTLETON:

I did not count all papers in that report; there were some seven or eight pages of them. I got a telegram from the headquar-

ters urging me to send in these accounts. I could not say when I got it. I did not preserve it, and I do not remember its date.

WALTER P. HOSKINS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Iron Mountain, Michigan, and am the publisher and owner of the Daily Tribune Gazette. I was connected with the paper in that capacity in 1918 and had an arrangement with the Truman H. Newberry Senatorial Committee under which my paper carried the Newberry advertising through June, July and August of that year. I carried in June, 70 inches; July, 77½; and August, 107, at twenty cents an inch plate matter. I rendered my bill monthly, with the exception of the last month. Payments were made to me as follows: July 13, $14; August 22, $15.90; November 14, $21.40. That is all for primary advertising. I have examined Mr. Blair's report of receipts and expenses. I found my paper mentioned. It is credited with $29.90. That is the amount I received on July 13th and August 22nd. My paper is not mentioned with reference to $21.40 in the report. The report does not show that there is that much due.

CROSS-EXAMINATION BY MR. LITTLETON:

At the time the report was filed, I had not sent in the bill for the last advertising. It was not sent until quite a while afterwards on account of sickness of the bookkeeper. I do not think we got a letter or telegram asking us to send in the bills.

BY MR. HAL H. SMITH:

I am sure the item "Iron Mountain Gazette, $5.00" on page 12 of the copy of Exhibit 60 now shown me, is correct and represents a subscription to my paper, but that is kept in another account, the subscriptions, a card system. I did not look through the entire report; I did not see that.

RE-DIRECT EXAMINATION BY MR. DAILEY:

The heading I looked at is this heading "Advertising and other Publicity," giving the name of the newspapers and the amount of money they are shown to have received for advertising.

RE-CROSS EXAMINATION BY MR. SMITH:

I only looked at the pages of the report that were shown to me by the Government agent who was interviewing me at the time.

RE-DIRECT EXAMINATION BY MR. DAILEY:

He turned it over and found the publicity part of it for me. He showed it to me and asked if that is the correct page. I did not run through it completely. I did not look through each page, but I did look through the list of newspapers.

RE-CROSS-EXAMINATION BY HAL H. SMITH:

I did not look at the page you referred to. There are eleven pages of advertising under the head of "Advertising and Other Publicity," and those pages I examined until I found the name of my paper, and then I quit. The succeeding four pages of subscriptions I did not examine, and my attention was not called to the two succeeding pages of "Advertising and Other Publicity."

HARRY C. HOLMES, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Lakeview, Montcalm County, and in 1918 I was the editor of a newspaper there called The Lakeview Enterprise, which carried the Newberry Senatorial advertising during the primary campaign of that year. The advertising was run in May, June, July and August, at the price of fifteen cents per inch. The total bill for the primary advertising amounted to $32.70. My best recollection of that is that I did not receive pay until the following election. I do not think I sent a bill in for any of it until after the election. I saw the report of Mr. Blair as to receipts and expenses. I did not find the name of my publication in it.

CROSS-EXAMINATION BY MR. LITTLETON:

If I remember rightly, I received a telegram or letter about sending in bills, I could not say which, urging me to send in the bill. I could not say what the date was, or what month it was. I saw Mr. Blair's report this forenoon. It was shown to me by some gentlemen in the District Attorney's office, I think; I could not say who they were. I looked at every page where the newspapers were listed; I did not look the whole book through. I did not see the item "Lakewood Enterprise $1.50" under the heading of "Advertising and Other Publicity" and subheading "Subscriptions."

BENJAMIN F. BARENDSEN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Grand Rapids. At present I am proprietor of the Bismarck Cafe and Billiard Hall. I was located in Grand Rapids in 1918. In the summer of that year I was pension attorney, notary public, and drafting legal contracts. My office was located at 79 Monroe. I know William J. Mickel. I had been acquainted with him about eight years. In 1918 he came and wanted to see me about renting an office for the Helme Headquarters. I talked with him about the idea. He was a Democrat himself, and he said it was not a question of being a Democrat or a Republican; it was a question of getting in another candidate against Ford in the field. He said the payment of the rent would be taken care of by him, that I need not be afraid of the rent; the rent would come all right, because it would come from the Newberry Headquarters. He said that he was representing Helme, getting him in the field. I cannot tell the exact words he used about compensation for himself; I remember the use of words "long green." He said he was in it for the money that was in it; that it about all that I can say about that.

CROSS-EXAMINATION BY MR. LITTLETON:

I had an office to let. He had been renting it for the State when he was dairy and food inspector, but had given it up. He wanted to rent it again. I did not rent it to him. I could not tell you how the balance of the conversation arose. I remember that "long green" was said, but I do not remember just exactly how it came about. He said that he was in the political game for the money there was in it. I could not give you the dates on the thing because it was in the fall—the early summer of 1918. A couple of months ago I was convicted of an offense. I had four and a quarter per cent cider, or four and one-tenth per cent cider. I plead guilty; I did not want to fight it, because I thought it would not pay.

W. J. MARTIN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I reside at Ovid, Clinton County, Michigan. I am a newspaper man. The name of my paper is the Ovid Register-Union. I was conducting that paper in 1918 and it carried the advertising for the Newberry Senatorial Committee during the primary from May 30th until the 22nd of August, inclusive. We received 15 cents an inch. Our total bill was $34.05, which we re-

ceived. I cannot remember just whom we received it from, but I believe it was from the Newberry Committee. I cannot state exactly the date we received it, but I made the deposit on the 20th day of November. I believe we sent in our bill in October. I did not send a bill prior to that time. Payment was received in a lump sum, $34.05. There were no separate bills.

CROSS-EXAMINATION BY MR. LITTLETON:

I received letters from the Newberry headquarters after the primary and some time in the fall asking me to send in our bill. I could not say whether they were from Mr. Hopkins, but they were from the Newberry Senatorial Committee. I believe I received a telegram for the same purpose. I know I was delinquent in sending in my statement. I know they were after me two or three times to send a statement.

FRANK NEVIN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Waldron, Hillsdale County, Michigan, and am the editor of the Waldron Recorder. I have been connected with that newspaper about five years. I was there in May, June, July and August, 1918. The Waldron Recorder carried the Newberry Senatorial advertising during May, June, July and August, at the rate of twelve and a half cents a column inch. The total was $22.88. I looked at the report of Mr. Blair in this case for the purpose of seeing whether or not the name of my paper was mentioned as having been paid for advertising. I did not find it. I do not know when the amount was paid; I was away at that time.

CROSS-EXAMINATION BY MR. LITTLETON:

The books were destroyed when I got back. I had a man running my paper and he absconded and destroyed all my records. All I have to go by is the files. The bill was sent in the 1st of September. I came back about the 25th of November, after the armistice was signed. I found no bills there or any account made out, or any records of any bills having been sent. All my advertising records were destroyed. I had to check up everything. I sent the bill myself before I left; the advertising was practically over then—the campaign was over. Then I left to go to Washington.

ARDIS M. KENNEDY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Manistique, Schoolcraft County, Michigan, and am in the newspaper business. The name of my paper is the Pioneer Tribune. In 1918 my paper had a contract with the Newberry Senatorial Committee of Detroit for the publication of the Newberry advertising, at twenty cents an inch. The record shows that we ran the advertising. I was not in charge of the paper at that time. The total amount of the bill for advertising in the primary was $47.20. It was run for four months, May, June, July and August. I did not personally send out the bills. Payments were made monthly, July 16th, $14.20; August 22nd, $13.40; November 14th, $19.60. The amount of $27.60 is mentioned in Mr. Blair's report. The $19.60 is not referred to. I do not know when the bill that was paid November 14, 1918, was submitted.

CROSS-EXAMINATION BY MR. LITTLETON:

I was not there in September, 1918. I took charge there April 4, 1919, so what I testified to is from what appears from the records. The first two bills totaled $27.60, and that appears in the Blair report. The other bill for $19.60 was not paid until November 14th. I do not know when the bill for the $19.60 was actually sent in.

BY MR. HAL H. SMITH:

I do not recall the check that I got for the $19.60 or to whom it was drawn.

GEORGE VANDERWARKER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Clare, Clare County, and I was living there two years ago. I am a retired farmer principally. I deal a little in real estate; loan money. I had some connection with the Newberry Campaign two years ago. I had no connection with the Organization. I distributed some literature for them. There was a local chairman in Clare County, I distributed some Newberry literature at the request of Mr. Reading. I circulated two and possibly three petitions; I don't remember who circulated the Clare petitions. I circulated the two township petitions at Mr.

Reading's instance or request. I received no compensation in connection with the circulation of those petitions. I did in connection with the circulation of the literature, some money was given me when the literature was furnished me and some of it was after. I was paid $5.00 once and $15.00 for a trip with my car and $5.00 at another time, and then at nearly the close of the campaign I was paid $50.00, making $75.00 in all. Mr. Reading paid the money to me. I was in his office when all payments were made. He conducted a law office; I do not know whether anyone else was present in the office when the payments were made; if there was it was his stenographer, she was usually there. The payments were made in his main office room by him. No receipt was taken from me for any of the payments. I was not asked to render any statement of expenses incurred.

CROSS-EXAMINATION BY MR. LITTLETON:

I have known Mr. Reading around 10 or 12 years. At that time he was Prosecuting Attorney for the County. I do not remember when it was I first talked with Mr. Reading about the campaign. We talked this matter over before the primary, before the petitions were filed for anybody. I had taken sides for the candidacy for Senator before the petitions were filed, and before I circulated them I had already expressed myself in favor of Mr. Newberry. I circulated the petitions among the residents of the two townships. I didn't go into the townships to circulate them. I circulated them in Clare as I met the residents of the townships. I distributed literature in the city of Clare and in ten different townships, the two eastern tiers of townships and the souther tier. I could not tell how many days or hours I put in, but it was more or less during the entire campaign until the last week, I didn't circulate any literature during the last week of the campaign. I couldn't tell you how much time I put in; sometimes all day, and sometimes half a day. I would think that I made at least a dozen trips in the county and maybe more; some shorter and some longer. Mr. Reading told me before I went out, he says, "Don't spend any money"—well, I asked him if I should buy a box of cigars and take along. He says, "No; don't give anybody even a cigar." He read the election law to me and says,—and he stated very plain "Go strictly according to the law." That was before I done anything, excepting the petitions, of course. I had circulated—I don't know whether—I think probably I had circulated the petitions before this. It was before I distributed any literature.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

Q. That was the Michigan state law that he read you?

A. I don't know what it was; I couldn't tell you. I am not a lawyer.

ALEXANDER BATH, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Lansing going on ten years. Prior to that time I lived in St. Ignace, Mackinac County, Michigan. At Lansing I was a clerk in the Secretary of State's office. I was located there in 1918. Some time during 1918 I received a letter from Paul King. Latter he called to see me. I could not tell the date or anything like it. He saw me at Lansing before the primary. I would judge sometime in June. He asked me if I would like to go up to Mackinac County in the interest of Mr. Newberry, and I said I would. I understood him that I would be taken care of. A few days afterwards I received a check for $100. Within a day or two after that I went to Mackinac County and saw my friends up there and asked them how they stood for Mr. Newberry. I did no work except to interview people. I was in Mackinac County about nine or ten days. I was there on a vacation trip. I worked for the interests of the party also. This was some time before the primaries—I think in June. There were several of my friends out on the Republican ticket. I electioneered for Mr. Newberry, and at the same time while I was up to Mackinac I talked for other candidates. After leaving Mackinac I went to Detroit and called at the Newberry Senatorial Headquarters, where I saw Mr. King. He said he would allow me $5 a day while I was gone. He did not say anything about what I had received. In passing from Mr. King's office a gentleman handed me a sealed envelope. Later, when I opened it, I found $50 in it.

CROSS-EXAMINATION BY MR. LITTLETON:

I saw Mr. King while he was Clerk of the House a good many years ago. I think I was holding a position at the same time in the capitol of the state; I am not sure. When I saw him at Lansing the last time I have mentioned, he did not say anything about poll lists or canvassing being done by me in Mackinac County. I told him I would be only too glad to do some work for Mr. Newberry. I had already expressed a preference in the Senatorial primary before Mr. King spoke to me. I made some part of my trip through Mackinac County by automobile, some

part of it by train; some part of it I walked. I did my work simply by canvassing and talking. In making the trip in Mackinac County, I pretty nearly used all of the $100 that had been sent me for expense. I did not use it for anything except expenses. Having completed the trip, when I went to Detroit and saw Mr. King, I explained to him the extent of my trip. I told him I went through Mackinac County and found things very favorable. I made a report to him of conditions there in that way. He said he would allow me at the rate of $5 per day for the time that I had put in as compensation to me for my time, and I received the $50 in this envelope. I kept that money for myself.

MICHAEL HARRINGTON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Escanaba and was living there in 1918. I am acquainted with Judd Yelland, and Henry Dotsch and I was acquainted with them in 1918. I saw Judd Yelland about a month before the primary in Escanaba. At that time, nothing was said to me about doing work for Mr. Newberry. There was a request made of me to do something in connection with the campaign. I afterwards distributed some literature in behalf of Mr. Newberry around through Delta County. At that time something was said about compensation, about paying me. I got paid in advance for the work that I done. I figured I got $20 out of it. I got $10 and I got credit for $10 which I owed Judd Yelland. He credited $10 upon that account, or cancelled the debt, and gave me $10 besides, in currency. I did not see Mr. Dotsch at any time in connection with the distribution of this literature.

CHARLES C. SIMONS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I have lived in Detroit all my life. I am an attorney-at-law. During the Newberry primary campaign of 1918 Mr. Chilson asked me to make some speeches for Mr. Newberry. I do not recall whether he said anything about compensation at that time or not. I did make some speeches. I do not remember the exact number, but it was some six or seven. Two of them were outside of the city, and the rest of them in the city. I made one at Lansing at a picnic of the Home Association. That was an organization of people who had relatives in the service. The pic-

nic was held out at the public park in Lansing. I also attended a political meeting in the town hall at Salem. In Detroit I spoke at several factory meetings at noon, and there were several evening meetings in connection with my speaking campaign. Mr. Chilson told me to send in my bill. I did so. I charged $200 for my services and I think there was a small item of expense; I do not recall what that was. That was for expenses for our trips out of Detroit. My bill was paid August 29th and I received in all then a little more than $200. I think Mr. King had asked me some time previously whether I could make any speeches. At that time I told him I could not. Mr. Chilson called on me sometime after that.

CROSS-EXAMINATION BY MR. MURFIN:

Mr. King and I had been friends for a great many years. I saw a great deal of him when he was Secretary of the Constitutional Convention. I usually have some friends who are running for office that I want to help out. My bill was rendered on my office billhead, and I think it was mailed over to headquarters. The paper now shown me marked Defendants' Exhibit No. 34 represents the voucher check in payment for my speeches and expenses that I have testified to. It has my endorsement on the back of it; that is my signature.

MR. MURFIN: I will offer it in evidence. It is a check of the Truman H. Newberry Senatorial Committee, numbered A-1583; dated August 30, 1918; on the Commonwealth Savings Bank for $212. It is signed by Mr. John Stalker and is marked on the inside "Expense Speakers' Bureau $212.00." I can't make out the date of cancellation. It shows it was cashed in the bank September 3, 1918.

W. H. KITTLE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Bellaire, Antrim County, and was living there in 1918. I was Sheriff at that time. I know Mr. Deevey. In connection with the Newberry campaign two years ago, he and I made several trips around the county. We made some drives around the county before the primary. He requested me to make these drives with him or for him. August the first, we drove to Elk Rapids and around back to Torch Lake, Central Lake and home. August the third at Elmira, Alba and Mancelona. On the 7th, we went up in the country to the Gleaners picnic. Those are all

the trips I ever got paid for. I made several other trips besides that. I was using my car at that time. Mr. Deevey paid me $25 for that in money. He took no receipt for it. I forget whether he made the payment in the court house or when we got home, I don't think anybody else was present at any time when he made the payments. The first trip he gave me ten dollars and the next time—each time when we come home he handed me the money. There was one trip I took somebody else; I invited him to go along, I don't remember who it was.

CROSS-EXAMINATION BY MR. LITTLETON:

I have known Mr. Deevey 25 years, I think. He was County Clerk at that time. We were out the three trips I spoke of, that is what I got paid for, but we done a lot of work besides that. Two days we were gone all day, didn't get home till evening; the other day we didn't take so much; you might say it was three days.

W. S. COCK, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Shelby, in Oceana County. I received the letter marked Government's Exhibit No. 122 through the mail the latter part of August, 1918.

The letter referred to by the witness was offered and received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT No. 122.

TRUMAN H. NEWBERRY,
Detroit, Michigan.

Mr. W. F. Cock, Shelby, Mich. New York City, August 17, 1918.

My Dear Mr. Cock:

It is very good of you, indeed, to sign the petition for me for United States Senator and I wish to express my great appreciation.

I will be unable, on account of my work here in the Third Naval District, to come home to thank you personally, as I would very much like to do, and so am writing you. I shall always try to merit your confidence in me.

Again thanking you, I remain, with best wishes,

Sincerely yours,

Truman H. Newberry.

THE WITNESS (continuing): I had not signed a nominating petition for Mr. Newberry for the United States Senate.

BY MR. LITTLETON:

The signature on the letter now shown me is mine. The letter referred to was marked Defendants' Exhibit No. 35 and the signature was offered and received in evidence and exhibited to the jury.

THE WITNESS (continuing): I see the fourth name on the petition now shown me, but I never wrote it. I did not sign that fourth name on the petition. It is a good imitation, but it is not my hand writing.

The petition referred to was marked Defendants' Exhibit No. 36 and offered and received in evidence, and the fourth name was exhibited to the jury.

THE WITNESS (continuing): I was once convicted of an offense. I plead guilty to assault and battery before Justice Chamberlain in Shelby, Michigan. I do not remember what the fine was; I was fined all right enough. I also plead guilty in 1916 before Justice W. E. Souter at Shelby. I plead to assault and battery there, fighting my way through. It was not drunkenness. I plead guilty again in April 1917 before Mr. Justice Souter again and was sentenced to jail for 20 days. That was for fighting. I was tried before a jury and convicted on September 8, 1911, in the Federal Court in this building, and was sentenced by Judge Sessions to sixty days in jail; and I served it, too. That was because I plead guilty to—I had given away liquor, which I did not do, but because there was a crowd there, they said if I would plead guilty, they would pay my fine, and so they did not do it and so I paid it for them.

ROBERT H. CAMPBELL, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Kalamazoo and was living there in 1918. I am a cigar clerk. I know Frank Ford. I think I saw him before the primary election in 1918 at his office. At that time, he did not furnish me with anything in the way of literature or cards. He furnished me with literature and cards in between primary and election day. I was not furnished any literature or any cards before primaries by Mr. Ford. I know Mr. Farrell. Before the primaries of 1918, he furnished me some literature to be distributed relating to Mr. Newberry, which I did distribute. Mr.

Farrell paid me about $25 in currency in connection with the distribution of the literature. Payment made to me in his office. No one else was present when the payment was made, and no receipt was asked or given for the payment of that money.

CROSS-EXAMINATION BY MR. LITTLETON:

I should imagine I have known Mr. Ford about 10 years. This literature was distributed after the primary and before the fall election. The bulk of it I guess was the county officers and the state officers, and for Senator Newberry as well but I distributed literature in reference to all the republican candidates. Mr. Ford asked me to do so. He was chairman of the Republican Committee at that time. I think I know where the money that Mr. Ford paid me in connection with the distribution of this literature came from. I don't think he told me. It was paid by check. Mr. Wykel, Secretary of the Kalamazoo County Republican Committee signed the check, which was drawn on the First National Bank, corner Main and Burdick, Kalamazoo, Michigan. I think Mr. Wykel's name was signed as Secretary of the County Republican Committee.

RE-DIRECT BY MR. EICHHORN:

The payment that Mr. Littleton cross-examined me about was the payment by Ford. The other payment by Mr. Farrell was in currency.

LOUIS J. LEANNA, being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Ontonagon where I conduct a confectionery store. I was a resident of Ontonagon in 1918. I know William S. Cresbassa. I saw him in Ontonagon in connection with the Newberry campaign. I says to Mr. Cresbassa—we was talking about the campaign—I told him I was for Mr. Newberry. He said he had some literature, and he asked me if I would not take some literature; I told him I would. He told me somebody had to take hold of that county; in fact, I told him I didn't think there anybody in the county that was out working for Mr. Newberry; and he said that I would be compensated. He didn't say he would pay me; he said I would be compensated. I expected by that that he meant to pay me money for my work. I distributed some literature. I saw Mr. Cresbassa after that. I wrote Paul King at Detroit in connection with that. I told him what my expense had

been; I think I sent him a bill. I didn't keep a copy of the letter. I got a copy of the letter that I received in return. I received nothing from Mr. King at Detroit except letters. I received no payment of money after I wrote to Detroit. I received no money from any source. Some of this work of mine was done before the primary. The work I first did was about two weeks prior to the primary. I think the letter I wrote to Mr. King was not written before the primary. I am pretty positive that it was not. I had a letter from Mr. Floyd after I wrote Mr. King. I think that letter was written me in September; I don't just remember the date. It was after the work for which I wanted $200 had been done, and after I had sent my bill to Detroit; I think it was in September 19th.

CROSS EXAMINATION BY MR. LITTLETON:

I did not bring the letters that I received from Mr. King with me. They have all my letters here, the court has. I turned my letters over to Mr. Jones, one of the officers or agents of the Government, when he first came up to Ontonagon before I was subpoened. I have seen the letters since I came here. I never saw Mr. McGregor; I do not know him. I think the conversation I had with Mr. Crebassa with reference to what McGregor had done was in November, after the general election and that conversation was in reference to Mr. McGregor and Mr. Jones. The letters now shown me are the letters that I received from Mr. King and Mr. Floyd. The letters referred to by the witness were marked Defendant's Ex. 37 to 37-e inclusive, offered in evidence by Mr. Littleton, and read to the jury as follows:

DEFENDANT'S EXHIBIT NO. 37.

Truman H. Newberry
For Republican Nomination for United States Senator
310 Ford Building
Detroit

State Committee:
A.A.Templeton, General Chairman
Paul H. King, Chairman Executive Committee.

August 26, 1918

Mr. L.J.Leanna,
Ontonagon, Michigan.

My dear Mr. Leanna:

Your good letter of August 24th is just received, and I want to thank you for the splendid work you are doing

for Commander Newberry. It is too late to forward the buttons, as they would not reach you until after the primary.

We feel sure of Mr. Newberry's nomination and will be very grateful for your help after the primary, as we know you can do him a great deal of good.

Thanking you for writing me, I remain, with kindest regards,

Sincerely yours,

Paul H. King.

DEFENDANT'S EXHIBIT 37-a

September 19th, 1918.

Mr. Louis J. Leanna,
Ontonagon, Michigan.

My dear Mr. Leanna:

Your letter of the 13th, addressed to Mr. King was received just after he left on a short vacation trip.

I do not quite understand what could be done about the matter you refer to. As you probably know, there are certain limitations beyond which we cannot go, and I know of no funds through which you could be compensated; neither do I know of any arrangement you had with Mr. Crebassa, and would suggest you write to him, as the matter is evidently between you two gentlemen.

With best regards, I remain,

Very truly yours,

Chas. A. Floyd.

DEFENDANT'S EXHIBIT 37-b.

September 5, 1918.

Mr.L.J.Leanna,
Ontonagon,Michigan.

My dear Mr. Leanna:

Your letter of August twenty-ninth, addressed to Commander Newberry, has been handed to me for answer. I was very glad, indeed, to receive the statement of the vote cast in Ontonagon County. The results are very gratifying to me and I realize that they could not have been brought about without the co-operation of our good friends, and I thank you most heartily for all that you did. We shall be very grateful for your continued support and hope to be able to elect Commander Newberry with an overwhelming vote this fall.

Thanking you for your interest and helpfulness, I remain, with all good wishes,

Sincerely yours,

Paul H. King.

DEFENDANT'S EXHIBIT 37-c:

August 20, 1918.

Mr. L.J.Leanna,
Ontonagon,Michigan.

My dear Mr. Leanna:

A mutual friend has advised me of your interest in Mr. Newberry's candidacy for the Senate and of the many fine things that you are doing in his behalf. This is indeed gratifying to me and I wish to assure you of my warm appreciation.

There is no question that your co-operation will contribute much to our success in the county and we shall be glad to rely upon you for all of the assistance that you can consistently give.

The campaign is progressing splendidly and we have every confidence that we will win,—in fact, if reports are to be believed, it will be a landslide.

With many thanks and all good wishes, I remain,

Sincerely yours,

Paul H. King.

JOSEPH CHENORD, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Manistique and was a resident of Manistique before the primary. I am a timber cruiser. I know Benjamin Gero and Frank Guinan. I live in Hiawatha township, Schoolcraft County. In the primary campaign, I think it was the day before the primary, Gero and Guinan passed by in a car and handed me an envelope or paper bag with some pamphlets in it, literature and buttons, and five one dollar bills in it. The literature and buttons that were in the envelope or paper bag, related to Mr. Newberry.

CROSS EXAMINATION BY MR. LITTLETON:

I have known Mr. Gero since he has been in Manistique. He moved to Manistique, twenty or twenty-five years, whatever time he has been there. When he first came to Manistique he

was a lumber scaler. Now I don't know what his business may be. Mr. Guinan is Game Warden at the present time.

JOHN W. CREIGHTON, a witness being sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at South Boardman, Kalkaska County and I was livin, there in 1918. Prior to the primary in 1918, the defendant, Ernest C. Smith left two or three Newberry nominating petitions with me. He said he could bill me for five dollars. I returned one of the petitions to him and received a check for $5.00 by mail. I got the money for it.

CROSS EXAMINATION BY MR. LITTLETON:

It was Mr. Smith's check. I went out to have the petitions signed. I drove south and east of my place and then back north and back home, and in the afternoon I came down town; Saturday afternoon. I am a farmer. Mr. Smith is prosecuting attorney; I have known him nineteen or twenty years.

R. E. BARR, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in St. Joseph and was living there in 1918. Before the primary campaign, the defendant, Albert Berger and I talked together at my office. Mr. Berger did not at any time pay me any money for myself. He did pay me some money, somewheres between $25 and $40. Before that he had requested me to do some work in the distribution of certain literature for Mr. Newberry. In connection with that work, I had employed other persons,—various boys, young fellows to distribute literature, some stenographers to prepare mailing lists. I did not keep an itemized account of the expenses that I incurred in that work. I never furnished Mr. Berger an itemized list of my expenses. He furnished me the money after I had paid it out to these other persons. To the best of my recollection, he paid me but once. I am not positive where he made me that payment but I presume at my office. It was in currency, I think. There was no one else present when the payment was made, except possibly my own stenographer. I wouldn't be positive of that. He took no receipt for the payment he made to me.

CROSS EXAMINATION BY MR. RIFORT:

I have known Mr. Burger for about twenty years. St. Joseph and Benton Harbor are separated just by the St. Joseph River.

I am reasonably familiar with the political situation in both cities. After my talk with Mr. Burger about having this literature distributed, I got the literature direct from Detroit. I was a member of the Executive Committee of the Berrien County Republican Committee, of which Roy Clark was chairman. Mr. Clark as chairman appointed me on the Executive Committee. Before Mr. Burger gave me any money to distribute literature, he and I had gone through the county and circulated ourselves the petitions for Mr. Newberry. At that time, we also had the petitions of Congressman Hamilton, I think a man by the name of Mr. Dukeshire was with us at least part of the time. We did not pay out any money for the distribution of those petitions, nor did I receive any money myself. None of that money that I was reimbursed by Mr. Burger for, was for the circulation of the petitions.

JOHN KAREL, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 48 Rose Street, Grand Rapids. I am Secretary of the Michigan Chair Company. I know the defendant, George Welsh. He had a conversation with me shortly before the primaries in reference to the circulation of some petitions in behalf of Newberry. I went up to the office and told him I was interested in the Newberry campaign, I was a Newberry man. He asked me to get the petitions circulated and would pay for getting them circulated. He said nothing about paying me until I had told him I was for Mr. Newberry. I afterwards had the petitions circulated, and he paid me about $50.00.

CROSS EXAMINATION BY MR. LITTLETON:

I went to Mr. Welsh's office on my own instance. I told him I was interested in the Newberry Campaign and I asked him if there was anything I could do, and he told me that he would like to have me circulate petitions. I circulated the petitions and told the boys I would circulate them on a ten cent per name basis; and they were circulated on that basis and Mr. Welsh paid it.

SUEL A. SHELDON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Berlin, or Marne, Ottawa County, Township of Wright, and I was living in that County in the spring of 1918.

The defendant, William Connelly came to my place at that time. I think he introduced himself and talked a few minutes, said he was looking after the interests of Mr. Newberry. I think I told Senator Connelly that I was an Osborn man. We talked—oh, maybe he was there five or ten minutes,—telling him the reasons I was for Mr. Osborn and I think he was telling me why he was for Senator Newberry. He said, I think, perhaps in the beginning, that Mike Hines, our Township Clerk, had told him that I could get a few votes, or he thought I could get a few votes; that was the reason he came to see me; he was looking after the Senator's interests. I told him I was a busy man and I didn't think I could go out and do any work, and I was an Osborn man. I think he said I wouldn't be expected to do it for nothing; he guessed they wouldn't any of them work for nothing; or words to that effect. That was about the sum and substance of it all. He did not say a word in that connection about what pay he was getting, if any, for his work, nor he didn't offer me any money nor anything of that kind.

The Government here introduced in evidence eighteen telegrams, marked Government Exhibits No. 123 to 123-Q inclusive, which were read to the jury as follows:

GOVERNMENT'S EXHIBIT 123.

Western Union Telegram.

Detroit, Mich 13.

Truman H. Newberry,
Hotel Gotham, New York, New York.
Have spent past two days in conference with Cody men from out in the state and city every one thinks including Frank Blair that Paul King quite necessary King will be in New York Saturday and Sunday this week Mr.Blair next week report satisfactory progress.

A. A. TEMPLETON.

GOVERNMENT'S EXHIBIT 123A.

Western Union Telegram.

Feb. 27th, 1918

A721DE 14
Detroit, Mich 737 P 27
Hon Truman H. Newberry
Cr Hotel Gotham New York NY
Pleasesend early convenience correspondence bearing on situation am well pleased with general outlook.

Paul H. King.

GOVERNMENT'S EXHIBIT 123b.

1006A 28
Detroit, Mich.
Feb. 28, 1918

Truman H Newberry
280 Broadway New York NY

Please also send special delivery today if possible most recent photographs of various kinds including one in uniform

Paul H King

GOVERNMENT'S EXHIBIT 123c.

Western Union Telegram.

Mar 9 1918

Paul H King
310 Ford Bld. Detroit Mich

Wire received Will see them What are they coming here for Have you any suggestions or advice to give me
Cgr 1401 Truman H. Newberry

GOVERNMENT'S EXHIBIT 123d.

Detroit Mich 438P 19
Truman H Newberry
280 Broadway
New York City NY

Messrs King Templeton & Andrews accompanied by their wives Kindly reserve at Biltmore

Paul H King

GOVERNMENT'S EXHIBIT 123e

March 1, 1918

Fred P. Smith,
1224 Ford Bldg.,
Detroit Mich

Subscribe for me through Liberty Loan Committee for one page Liberty Loan advertisement once during coming campaign Wire me details when you have arranged this Inform King and act quickly
cgr 1401 Truman H Newberry.

GOVERNMENT'S EXHIBIT 123-F

Western Union Telegram.

FY Detroit Mich 545 P 4 1918 Apr 4 PM 7 15

Lieut Commander Newberry
Gotham Hotel New York NY

Wayne County Republic Committee at meeting held today unanimously endorsed you for United States Senator

Milton Oakman

Messenger No.7430 Message 244

GOVERNMENT'S EXHIBIT 123-G

Western Union Telegram.

Apr 4 1918

Milton Oakman,
County Clerk's Office
Detroit, Mich.

Many thanks for your message. I wish I could be home to shake the hand of each member of the Wayne County Republican Committee and thank them for their unanimous endorsement of my candidacy for the senate, also to try to express my deep appreciation of the honor and responsibility thus conferred. Please try and do it for me and realize that I know who did it.

Truman H. Newberry.

GOVERNMENT'S EXHIBIT 123-H

Truman H. Newberry, Detroit Mich Apr 15.
Gotham Hotel New York.

Currie advises Larned arrives New York today or tomorrow suggests you look him up and call on him possibly gaining his support for you big dinner planned for him on return and enthusiastic friend may suggest his candidacy.

Paul H. King.

GOVERNMENT'S EXHIBIT 123-I

1918 Apr 30 AM 2

Detroit Mich 29
Lieutenant Commander Truman H. Newberry
Care Hotel Gotham New York NY

Milton Oakman advises conversation with Mayors Secretary Fitzgerald to the effect that Couzens will not run for the United States Senate Mr. King is in Upper Peninsula and you will hear from him direct.

B. F. Emery.

GOVERNMENT'S EXHIBIT 123-J

Detroit Mich 81 P23
May 23, 1918

Hon. Truman H. Newberry
208 Broadway New York NY.

Have been so busy this week that I have not written Everything seems to be going all right will come down for Sunday June first Wish you could be here with the Colonel Kindest regards.

Paul H. King.

GOVERNMENT'S EXHIBIT 123-K

Detroit Mich 847 P 16

Lieut Commander Truman H. Newberry,
280 Broadway, New York NY

Please wire Hon A.F.Bunting Goebel Building Detroit tomorrow Wednesday as follows I regret very much indeed that on account of my duties here it is impossible for me to accept yourkind invitation to attend the annual meeting of the North End Republican Club I should like nothing better than to be there and to speak to the members of the glorious part which America is taking in this the greatest conflict in history. I am proud of the patriotic work which has been done by our own beloved City and State and know that I do not need to urge you to continue your splendid work I am asking Paul H. King to represent me on this occasion and to extent to you my best wishes for a successful and enjoyable meeting.

Paul H. King.

GOVERNMENT'S EXHIBIT 123-L.

Detroit Mich 1918 July 19, 1918

Hon.Truman H. Newberry,
Cr Biltmore Hotel New York NY

Could not get away tonight Mangum wires meeting may have to be postponed until Saturday Communicate with him at Waldorf Will come down Friday night leaving here on Detroiter Fine meeting today of North End Republican Club Tashmoo Park Osborn on way east tonight evidently told Times all about it as they have big story first page that National leaders are trying to clear way for him.

Paul

GOVERNMENT'S EXHIBIT 123-M

Detroit Mich 239 P 31

Fred Canfy
149 Broadway New York NY

Will you follow up in line our conversation yesterday developments necessitate this action on your part advise.

R. F. EMERY.

GOVERNMENT'S EXHIBIT 123-N

Detroit Mich 1233P 26

Lieut Commander Truman H Newberry
280 Broadway New York NY

Your wire received Have just had conference with Fred Smith who has wired you impossible for me to be in New York Saturday or Sunday this week.

A A Templeton

GOVERNMENT'S EXHIBIT 123-O

Western Union Telegram

Jul 27 1918

To Paul King
310 Ford Bldg., Detroit

At midnight Smith telephones from Grand Rapids asking if I would surely stick to a finish I replied most emphatically yes. He said he did not want to run. His petitions were all ready and he would decide and wire me Saturday He wants to see me here next week Seemed very friendly and I asked for his support
cgr 1920 Truman H. Newberry

GOVERNMENT'S EXHIBIT 123-P.

Detroit Mich 135P 1918 Aug 5.
Lieut Commander Truman H. Newberry
280 Broadway, New York NY

Please send telegram today to Arthur E. Wood President 16 Gratiot Avenue Detroit along lines of telegram sent to North End Republican Club some weeks ago Occasion is annual outing Detroit Republican Club at Putinbay tomorrow as you know this is large affair and we will be represented there by able speakers.

Paul H. King.

GOVERNMENT'S EXHIBIT 123Q

460 de 26 NL. Aug. 9, 1918.
Detroit Mich 9

Lieut Commander Truman H. Newberry
Third Naval district 280 Bdwy New York NY

Will be in New York Sunday morning with letter and data as requested your telegram to King. Kindly reserve room Biltmore.

B. F. Emery.

BOY CUMMINS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at South Haven, Van Buren County. I know the defendant, Gladstone R. Beattie. In connection with the Newberry campaign in the summer of 1918 he requested that I pass out some cards. At the time that he gave me the cards, he said "Now we want to put Mr. Newberry over," and told me that he was for Newberry. At one time in connection with the Newberry matter he said that maybe he could get me $50 of the Newberry money. He brought me the cards to be passed out a couple of different times; he left one package in the office and then again I got a few out of the car. He gave me $5 or $10 a night or two before the primary. I don't remember exactly, but I think it was $10 in money. I don't remember just where we were when he paid me that. Nobody else was standing by when he paid me that I remember of. He had given me $10 when we first had our conference—the time when he swung me over for Buckley.

CROSS EXAMINATION BY MR. BARNARD:

Mr. Beattie never gave me any $50 at any time. This first money that I swore to here was the last money give me. It was $10 and Mr. Beattie gave it to me, when we were talking about working for Buckley; that was along the first part of the primary. That was for working for Mr. Beattie, who was running for county clerk. That is the time we made up the deal that I was to work for Mr. Buckley, who was running for Sheriff. Mr. Beattie was supporting Mr. Buckley, and he got me to support Mr. Buckley. He never gave me any money of Mr. Newberry, or to work for Mr. Newberry.

GOVERNMENT'S EXHIBIT 1230

460 de 20 NL. Aug. 9, 1918

Detroit Mich 9

Lieut. Commander Truman H. Newberry

Third naval district 280 Bdwy New York NY

Will be in New York Sunday morning with letter and data as requested your telegram to King. Kindly reserve room Biltmore

B. F. Emery.

CHARLES M. NOVAK, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 93 King Avenue, Detroit, Michigan. There is no other man by the name of C. M. Novak living at that address, nor was there in July 1918. "C.M.Nowak, Detroit, 93 King Avenue, July 24, 1918", appears at line 20 of Government's Exhibit No. 124, now shown me, being one of the James W. Helme petitions. I did not write that, and I did not direct or authorize anybody to write my name there.

CROSS EXAMINATION BY MR. LITTLETON:

I do not remember signing any petition in the summer or spring of 1918. I do not know that I did. I think there are other families of the name of Novak in Detroit. I know none personally by that name, but I do know there are five or six of that name in the telephone book. I do not know of anybody in Detroit by the name of C.M.Novak other than myself. My name is usually written, C.M., not Charles M. That is how I write it. I am principal of one of the high schools in Detroit.

ROSCOE S. DOUGLAS, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I have been a resident of Detroit about 23 years. My particular address in the city is 501 Catherine Street. That was my address in July 1918. I am a clerk in the Dime Savings Bank, and have been so employed about seventeen and one-half years. On line 23 of Government's Exhibit No. 125, now shown me, being one of the James W. Helme petitions, there is written "R. S. Douglas, Detroit, 501 Catherine Street." I did not write that name or what appears on that line, nor did I authorize any-

one else to do so. There is no man of that name other than myself at the address given there. There never has been.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

I wrote the name "Roscoe S. Douglas" upon the back of this exhibit a few days ago for the Deputy Marshall. That is my signature.

JAMES FLETCHER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 331 Sherman, Detroit, Wayne County, and I was living there in July 1918. "James Fletcher, 331 Sherman" appears on line 10 of Government's Exhibit No. 125 now shown me, which is one of the James W. Helme petitions. I did not write that or authorize or direct anybody to write it for me on that paper. I wrote the name "James Fletcher" on the back of that exhibit Monday of this week.

CROSS EXAMINATION BY MR. LITTLETON:

I do not remember signing any nominating petitions that spring or summer. I know of a James Fletcher in the city, but where he lives I do not know; I do not even know whether he is white or colored.

WILLIAM R. DUFFY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 429 Cass Avenue, Grand Rapids. I am a hotel clerk at the Morton House and occupied that position during the month of February. I know Mr. R. H. Fletcher of Bay City, and have seen him write his name upon the register. Referring to the three papers marked Government's Exhibits Nos. 126, 126-A and 126-B, now shown me, I saw the third name on the first page written. It is the signature of Mr. R. H. Fletcher of Bay City. His signature appears on the two other pages. I saw this name signed on each of the three papers.

MOSE BUCHMAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Rapid River, Delta County, and I lived there during all the year 1918. During the primary campaign of 1918 I

was acquainted with Judd Yelland and Henry Dotsch. I was then engaged in the mercantile business in Rapid River. Yelland and Dotsch came to my place of business some time before the primary of 1918. I was in the store at the time. I talked with them. I wouldn't say for sure whether they left anything that day, or whether it was sent to me afterwards. They left $10 with me that day. I am not sure whether anything else was left that day or not. Either that day or within a few days I received some Newberry literature, which Yelland and Dotsch wanted me to distribute. I refused at first; I didn't think I could do it myself, but I did distribute it. I don't believe I read it myself. It was some campaign literature, pamphlets, I couldn't say for sure how many there was of them either. There was a couple stacks of it, possibly a hundred. They only gave me $10.

CROSS EXAMINATION BY MR. LITTLETON:

I have known Judd Yelland and Mr. Dotsch perhaps fifteen or eighteen years.

JOE BEAUCHAMP, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Escanaba, Michigan. I formerly lived at Nahma, in Delta County. That is where I was living in 1918. I was a stage driver and ran a livery barn up there. I received a call from the defendant Judd Yelland some time prior to the primary. Nobody was with him at the time. I know Henry Dotsch. He was with him, but I was all alone by myself home, but Dotsch was with Mr. Yelland. Yelland gave me some little cards with Mr. Newberry's name on it, and his picture, that day, and asked me if I wanted to pass the cards around to the people there. After he gave me the cards he gave me a $5 bill.

ANDREW ENGLUND, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in the township of Ford River, Michigan, which is about ten miles from Escanaba. I was living at that same place during the year 1918. Prior to the primary day in 1918 I received a visit from the defendant Judd Yelland. I was working on the county road at the time, about seven miles from my home. A fellow named Henry Dotsch was with Mr. Yelland

at the time. I knew him too. Yelland asked me to distribute some Newberry pamphlets. I couldn't say exactly how many, possibly a dozen. Mr. Yelland handed me these dozen pamphlets first, asked me if I was willing to distribute some amongst my friends, and then afterwards he handed me $5. He says, "Take this for your work."

CROSS EXAMINATION BY MR. LITTLETON:

Previous to that time I had been Supervisor for six years. I had known Judd Yelland sixteen or eighteen years, and Mr. Dotsch about the same length of time. I received other literature after this day when I saw Judd Yelland. There was some mailed to me, not from Yelland. I didn't receive any more from Yelland. That literature was in the form of cards. I did not distribute the amount that was mailed to me. I received them some time during the month of August, before the primary. On the day when I saw Judd Yelland he asked me to take the cards, if I was willing to distribute them. I told him I would do so. I left them for the boys that was working on the road. We had a dinner place at the gravel pit where we had a lot of cards, there was Ford cards, Newberry cards and cards of every candidate on the ticket, right at that place, we had a place there where we put all of these cards and I put the cards there for the boys. I had not taken sides in the primary election before Judd Yelland spoke to me, nor had I made up my mind finally as to whom I was for, for Senator.

EUGENE CONLON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Germfask, Schoolcraft County, Michigan. I know the defendant Frank Guinan. His home is at Manistique. As far as I know he stays there now. During the primary campaign of 1918 Mr. Guinan gave me $5 and told me to buy some cigars for the boys. I was at my home when he gave me the $5. He called there, I believe he asked me how Mr. Newberry was running in the campaign. I believe we talked over the county affairs, the county officials. That was before the primaries.

MAX KADZBAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Manistee, Manistee County, Michigan. I was living there during the campaign of 1918. I was acquainted at that time with August Field of Manistee. Before the primary he asked me who I thought was going to be the best Senator and I told him that I thought between the two, was Newberry; so he asked me if I would circulate a petition which I told him I would; he said he would pay me for it which he done. To my recollection, he gave me one long petition with two pages to it. I got about one hundred and twenty-five names, I should judge, if I remember right. I got the spaces on both pages filled. Then I called him up and he came down and got it and paid me for it. He give me a $10 bill. He made that payment in my place of business, which at that time was a Near-beer stand. Nobody else was present when he made me the payment of the $10. Later he came to see me again and asked me if I would distribute some of the literature, which I told him I would; he said he would pay me for it. He left me some of Newberry's cards, which I distributed. I took some down at the salt block and saw mill, passed them around to the people. I peddled the rest of it around until I got rid of all I had. I had some in my place of business and passed them out in the liquor room. He paid me $10 for that later. Nobody was present when he made that payment. Both of the payments were made with currency. He did not ask me to sign a receipt or anything for them. I got the signatures to the petitions in my place of business.

CROSS EXAMINATION BY MR. LITTLETON:

There was no secrecy about the payments.

LEE W. FRIGHNER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived at Nashville, Barry County, Michigan, a number of years. I am the publisher of a newspaper called the Nashville News. I was the owner of that newspaper during the primary campaign of 1918. It carried the newspaper advertising of the Truman H. Newberry Senatorial Committee during the primary campaign, in May, June, July and August. The total bill was $30.51. I received payment of that bill on the 13th of November, all at one time. I have looked at the report of Mr. Frank Blair which has been introduced as an exhibit in this case, and I did not find the name either of myself or my paper there.

think there was no bill rendered until the work was finished. The date of the last publication was on the 22nd of August. Our contract price was thirteen cents an inch.

It was here conceded that the Blair report showed a subscription to the Nashville News which had been paid for prior to the date of the report.

CROSS EXAMINATION BY MR. LITTLETON:

I do not remember having received or seen a telegram or letter asking that a bill be sent in. We sent in two bills before receiving the money.

GEORGE H. BROWNELL, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I now live in Chicago. In 1918 I was living in Detroit. In the summer of 1918, preceding the primary, I was executive secretary of the Detroit office of the United States Food Administration. In connection with that, I was interested at that time in several other war movements. I helped to promote the Boys Working Reserve. In that connection, a committee of which I was spokesman went to see Paul King. The Boys' Working Reserve was an enterprise promoted by the Department of Agriculture at Washington, and its purpose was to put city boys on farms, and we wanted to get the farmers in touch with the city boys and the only way to do it was to advertise in the farm journals of the State of Michigan. We conceived the idea of paying for advertising in those journals and getting the money in the same way that the Red Cross did. I told Mr. King that we wanted the Newberry Campaign Committee to pay for two advertisements in the two large farm journals of Michigan. I said it was good publicity for his candidate. I put the matter to him as a strong business proposition; it was an advertising opportunity for Mr. Newberry among a class of men who were probably not familiar with him. I did not say anything about his strength, as I recall it, but I said he was not well known among the farmers. I do not remember Mr. King's exact words, but I think he said he agreed with me. As the result of my presentation of the matter to Mr. King, he agreed to pay for the two pages of advertising in the Michigan Farmer and the Michigan Business Farming. I do not recall, the exact amount he paid but it was somewhere between $700 and $800. It was paid to these papers. I saw the copies of the advertising;

it was written by our committee, and in that advertising Mr. Newberry's name was used. There was some further conversation at the same time between Mr. King and me about my taking employment. After we had settled the matter of advertising there was a discussion among the Committee in regard to the campaign. I think it was one of the other members of the Committee who jokingly asked Mr. King why he did not hire me, inasmuch as I had done pretty well with him in the advertising line. Mr. King laughed and said "Maybe I will." And so we began talking and the other two members of the Committee got up and went out and Mr. King and I talked on for five or ten minutes. We made an arrangement whereby I was to go to work for the Newberry Committee, and that was all there was to it. There was no figures mentioned, I think, when I went out. I said, "I will see you again about the matter of salary." I wrote Mr. King probably a week afterwards that I did not care for the position. I have the correspondence.

CROSS EXAMINATION BY MR. LITTLETON:

At the time I spoke to Mr. King, I was writing for the farm journals. I was writing for any farm publication that would take my stuff. I was identified with every free work I could get into. This Boys' Working Reserve that I was representing at the time was a work that was fostered by the United States Department of Agriculture. It had a Michigan representative, Mr. Charles A. Parcells. He came to Detroit and went to the Advertisement Craft Club, and solicited their co-operation. A committee was appointed to co-operate with Mr. Parcells and I was on that committee. We decided that the work would be advanced best by taking advertising in the farm journals, telling the farmers about this work. Otherwise it seemed there would be some diffidence on their part, because a city boy does not stand very well with the farmer. We had to convince them that the boys were desirable, and they were. Mr. Parcells was identified with the Government. I believe Michigan Director was his title. I was employed by Mr. Parcells. I was only a member of his committee. I was working with Mr. Heineman, the Food Administrator later, but not at the time I saw Mr. King. When this committee went to see Mr. King, Mr. Parcells did not go with it. It went to help out Mr. Parcells in his work, the same as the Red Cross or the Liberty Loan Drives. It was absolutely a voluntary Committee. Three of our committee went to see Mr. King. I had met him before. It was my own idea to go and see him, and when I presented to him the propo-

sition of having the committee pay for advertisements in these two journals for the work of this Working Boys Reserve, and had argued the matter out with him, he accepted the proposition and told me he would do what we wished. The advertisements were prepared by Mr. E. LeRoy Pelliter, another member of the committee. Our committee did not make other visits to other people to solicit support; there was no need to.

ALLEN MORRISON, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live on a farm near Rapid City, Kalkaska County, Michigan, about eight miles from Kalkaska. I know the defendant Ernest C. Smith. During the primary campaign of 1918 I was requested by him to circulate one of Newberry primary nominating petitions and also to distribute some literature, as I circulated the petition. Mr. Smith said he would pay me $5 for that work, and he afterwards paid me the $5. He paid me some time after I circulated the petition; I think before the primary, but I wouldn't say for sure.

CROSS EXAMINATION BY MR. LITTLETON:

My farm is just across the road from Mr. Smith's. I have known Mr. Smith nearly all my life, I suppose twenty years probably. He was engaged in work on his farm in the spring and summer of 1918. He paid me by giving me a check for $3 and putting a man to work in my place while I circulated the petition at $2 a day. He was clearing up some ground across the road from where my place was during that period, and planting it in potatoes, and was working there himself. He allowed one of his men to come over and do work on my place that one day when I was out. When we settled he gave me a check for $3 and deducted from the $5 the amount that the man had done on my place whom he had loaned to me for that period. That is the way the matter was adjusted.

FLORENCE McELROY HALL, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home was in Kalamazoo in 1918. I live in Leslie now. During the primary campaign of 1918 I was employed in the office of Mr. Charles H. Farrell. I recall Charles Floyd being in the office on one occasion during the primary. Mr. Farrell

was in the south at the time. Shortly after that I remember a man by the name of Isaac Bloom, calling at the office. I do not know whether he left a check or some money at that time. I don't recall who left the money or check or something, I don't know which it was. I think the amount of it was $25. It was to pay for a supper, a preliminary worker's supper or something, that is, a meeting of the leading Republicans to get in touch with the primary campaign for Mr. Newberry. It was held at one of the hotels in the city. This check or money that was left with me at that time was turned over to the hotel authorities. I don't recall whether I turned it over or whether Mr. Farrell gave it, or whether Mr. McLean came for it. I called Mr. Farrell's attention to it; he knew it was there. It was in the safe. He was away out of the city for a week or two at that time.

CHARLES L. MATHIEU, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in New York. In 1918 I was connected with the International Film Service Company. The paper marked Government's Exhibit No. 132, now shown me, was sent to or delivered to my concern at that time. It is a contract which was returned to me after submitting.

The paper referred to by the witness was offered and received in evidence and read to the jury as follows:

GOVERNMENT EXHIBIT NO. 132.

International Film Service Co., Inc.,
Executive Offices,
729 Seventh Avenue,
New York.

July 3rd, 1918.

Newberry Senatorial Committee,
310 Ford Building,
Detroit, Michigan.

Gentlemen:

My understanding of your offer to our Mr. Mathieu is as follows:

We agree to compile and manufacture from such exposed negative as we have on hand at our office a one reel picture consisting of approximately one thousand feet depicting and describing the growth and develop

ment of the United States Navy, for which you agree to pay us one hundred dollars upon the signing of this agreement and the sum of nine hundred dollars upon the completion of the positive print that we are to furnish you not later than ten days after the signing of this contract. It is understood that the negative belongs to us. Any additional positive prints that you may desire we agree to furnish you at the rate of fifty dollars ($50.00) per reel, payment to be made upon ordering of same.

Your confirmation of the foregoing understanding noted hereon will constitute this a contract between us.

INTERNATIONAL FILM SERVICE COMPANY, INC.

By

Vice-President.

We hereby confirm the foregoing understanding.

NEWBERRY SENATORIAL COMMITTEE,

By Thomas P. Phillips.

THE WITNESS (continuing): After that was signed and sent into our concern payments of money were made to us in connection with it. The first sum paid was $100. That was paid at the time of the execution of this contract. My recollection is that the final check for $1650 came after the delivery of the copies ordered. There was a small payment of $31.25 for some special films we made. Whether it was paid before or after this, I cannot state. That was for making some pictures of Mr. Newberry inspecting the Naval Recruiting Ship in New York. In all, $2,031.25 was paid our concern by the Senatorial Committee. Either twenty or twenty-one copies of the original films were made for them. The payments were all made by the Newberry Senatorial Committee.

GEORGE GIDLEY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Caro, in Tuscola County, and am in the hotel business there. I know the defendant, Henry S. Myers. During the primary campaign of 1918 he spoke to me with reference to a dinner at my hotel. The dinner was given on August 1, 1918. The defendant Paul King was there that day. About eighty people were there. Mr. Myers paid me $80 for the dinner, the same evening.

WILLIAM H. STEWART, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived at Kalamazoo, Michigan about eleven years. I have a job printing office there. I belong to the Typographical Union and am a delegate from that to the Trades and Labor Council, which is the central labor body of Kalamazoo. I was in this same business during 1918, and a member of these same organizations that I have spoken of. I know the defendant Charles Farrell. During the 1918 primary campaign Mr. Farrell came to my office and opened conversation regarding some work in the interests of Mr. Newberry in the Trades and Labor Council. He asked that I draft and present a resolution there endorsing Mr. Newberry's candidacy as senator. I objected to doing it. I told him that I didn't want to do it. I am not absolutely clear whether Mr. Farrell made two calls or one. My impression was that he came to the office twice. On either the first or the second visit, if it was the second visit, he came there and after some more or less conversation urging me to draft and present this resolution, endeavor to get it passed, and calling attention to some action of Mr. Newberry's while assistant Secretary of War as regarding union labor, and he finally took $10 from his pocket and asked me if I would take that and take a box of cigars up to the meeting. I told him that I would. As near as I can relate it now he told me to state to those present that it was sent by Mr. Newberry's friends or in his interest, something to that effect. I took the $10 and bought a box of cigars out of the $10 and took them up there, presented them. The statement which I made to the body was practically to this effect: I said that here is a box of cigars which is sent up by Mr. Newberry's friends and I understand that they would like to have this body pass a resolution endorsing his candidacy as Senator, but far be it from me to present such a matter here, such a resolution. I had a further conversation, that occurred I believe it was on the same day of the meeting. These previous ones were two or three days ahead of the meeting time when he called me up by telephone and asked if I would come over to his office. I went over there. The defendant William B. Wilson was there. I couldn't distinguish all of the conversation from Mr. Farrell's and Mr. Wilson's, but it was urging me to pass and introduce such a resolution. The main talk was with Mr. Wilson. Mr. Wilson stated that they had got the resolution endorsing Mr. Newberry, through in Muskegon, in Grand Rapids, and he named one other city, I am not positive, I think he said Lansing. He did not give me the wording of it; and that he thought it

would be easy enough in Kalamazoo and went on to state that he expected it would go over in Jackson that night, that he was going from Kalamazoo to Jackson for that purpose.

U. H. DUPUE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at Escanaba, Michigan. In 1918 I was living at Shaffer, Michigan, which is in the same county. I was engaged in the general merchandise business. I know Judd Yelland, and Mr. Dotsch. They came to my place of business before the primary in 1918. Mr. Yelland asked me how things were looking for election. I told him that things were looking good for Mr. Newberry. They left some literature on the counter. I made no distribution of it, just left it there. Shaffer is a farming community, maybe a couple of hundred population. At that time Mr. Yelland paid me $10. He slipped it in my coat pocket. Nobody else was present at the time. He did not say anything about the money when he gave it to me.

CROSS EXAMINATION BY MR. LITTLETON:

I had known Mr. Yelland seven or eight years. He had been to my place that spring before, occasionally. I also know Mr. Dotsch. I believe he had been about my place that spring. I had had no prior conversations with Mr. Yelland about the campaign. People come to my store off and on. I took no active part in the campaign. I did not notice the literature that was left on my counter much. Mr. Yelland didn't say a word about distributing it; just threw it on the counter. It was put on the counter where my people came in to buy and trade. After that I didn't do anything myself towards distributing it. People came in and got it, or look at it, as they saw fit. I did not keep it there through the campaign; I believe it was swept out, cleaned out, the next day or so.

JOHN SHANAHAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHORN:

I live at present at Escanaba, Delta County. In the summer of 1918 I was living in Harris Township, Menominee County. I was then inspecting ties for the Chicago & Northwestern Railroad Co. I knew Robert Tetro at that time. I met him at Stevenson about probably two months before the primary. He

asked me if I would support Newberry and I told him I didn't know, I didn't belong to the party; he said if you do anything to help us out we will see you get paid for it. After the primary I received $5 through the mail from Robert Tetro; his name was signed to the letter.

CROSS EXAMINATION BY MR. LITTLETON:

It must be six weeks after the primary that I received the $5. Mr. Tetro sent me some literature or documents to distribute previous to the primaries. He did not give me any documents or literature at the time I talked with him. My work at the time took me all over three or four counties at different times; wherever they had ties to inspect they sent me there to inspect them. I did not go about doing any work in the campaign after Mr. Tetro told me that he would pay me. I paid no more attention to it. After what he said to me I did not tell him I would do the work. I told him I would see; didn't say that I would or wouldn't. I did not see him again or send him any word. I did not send back the literature that went to my house.

JAMES F. WOODRUFF, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHORN:

I live in Detroit. I am in the advertising business with the Campbell-Ewald Company. I was connected with that concern in 1918. I know of the existence of the Truman H. Newberry Senatorial Committee. We had a verbal arrangement with them for the placing of advertising. I think that arrangement was made between Mr. Ewald and some members of the Senatorial Committee. I was not present at any time when it was being talked over. The advertising from this committee was placed by our agency with the Detroit Evening News, Detroit Free Press, Detroit Saturday Night, Detroit Journal. Early in the campaign I was called in connection with the preparation of some of the copy and the illustrative matter, and I supervised the making of plates, engravings, etc. In doing that work I came in contact with Mr. Hannibal A. Hopkins of the Senatorial Committee. The work was chiefly done in our office. I never visited the Newberry offices or the Committee's office in the Ford Building. Mr. Hopkins would come to our office, or occasionally instructions would be phoned. The arrangement began, I believe, some time in May, the active work, and continued until after the primaries. I do not believe any advertis-

ing was carried under this arrangement after the primaries on August 27th. I have our accounts or ledger sheet with me. According to Government Exhibit No. 60, $2,582.57 was paid our agency by the Committee for advertising in the Detroit News, and those figures correspond to ours. According to Government Exhibit No. 60, $1,132.43 was paid for advertising placed through our agency in the Free Press; our books show $1,885.50. The third line of Government Exhibit No. 60 on page 2, shows advertising through our agency in the Detroit Journal to the amount of $612.36. $862.12 was paid our agency for advertising in the Detroit Journal, before the primary. The fourth item in Government Exhibit No. 60 is $390.60 for advertising placed through our agency with the Detroit Saturday Night, and that was the amount paid us. The net amount paid us for the placing of the advertisements in their publications was $5,654.32. The last of that was paid November 12th. On that day $2,200.91 was paid. In addition to the money that was paid to our agency in connection with this advertising arrangement, there were some more payments made by the Senatorial Committee on account of items furnished by suppliers. By that I mean any organization which provides one of the necessary elements that goes into advertising, such as art work, engraving, type, composition, electrotypes, mats, etc. In connection with the advertising that our agency did in these publications I procured from suppliers some of the things I have designated and the bill for those extras, amounting to $233.88, was paid by the Newberry Senatorial Committee.

CROSS EXAMINATION BY MR. LITTLETON:

I think I can tell from our records when, in most instances, our bills were sent in to the Senatorial Committee for the work which we did. The total of the bill for the advertising in the Detroit News appearing in the report of Mr. Blair (Government Exhibit No. 60) is $2,582.57, and that was all that was paid through the Campbell-Ewald Company. For advertising in the Detroit Free Press there was an additional amount which ran it up from $1,132.43 to $1,885.50. On September 9th we billed the Free Press advertising to the amount of $134.40. On September the 4th there was billed for advertising to the amount of $542.08. On September 10th a check was received for $2,190.45, and on November 12th another check was received for $2,200.91. That applied to a lot of items. The balance due for bills sent after September the 9th, on the Detroit Free Press advertising, would be included, probably, in unpaid items

because the ledger sheet shows the account was closed on
vember 12th. There is a balance. As to the Detroit Jour
the last item billed to the Senatorial Committee was for $380
The ledger sheet does not show the date of that billing; but
asmuch as those were August insertions I imagine that
billing was around the first of September. Whatever time
billing was done, the difference between $862.12 and $61
would be received after September the 6th.

WILLIS R. HARRISON, being sworn as a witness on be
of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Inkster, Wayne County, Michigan. I am a farm
also a supervisor. I was living in Wayne County in 1918,
ng the primary campaign for Senator. I know Mr. B. Fr
Emery. During that primary campaign he came to me
wished me to get ready for a kind of Republican rally, I bel
he called it. At that time he paid me $25. In connection v
the proposed meeting, there was $14.15 paid me in addit
That was for moving the piano and advertising and I think
renting of the piano. I was never asked to return any acco
of the $25, and I never did. I paid out some of it to Mr. Jan
son for doing some advertising that I could not do. I was h
on the road at that time, distributing some literature.

CROSS EXAMINATION BY MR. LITTLETON:

When Mr. Emery came to see me and gave me this mo
he asked me if I was for Mr. Newberry. I told him I was,
he asked me if I could do a little work for him. I told hi
could. He gave me some literature to distribute and $25
wanted me to get ready for a little Republican rally in
town. I got ready for the rally, but we did not have it beca
it rained. It was to be in a park. We had seats and a pia
I distributed the literature which he gave me around town,
I had another man help me. I saw Mr. Emery once after t
in the Newberry Headquarters at Detroit, where he gave
$14.50, which was for advertising, rent of the piano and mov
the piano to and from the park where we were going to h
the rally. This money was spent by me in the expenses I
distributing literature and preparing for the meeting.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

The $25 was paid me in cash. I do not remember who
was present; there were several around there; I do not reme

ber who they were. It was paid in the rear of the Wayne Savings Bank. He did not take any receipt for it.

ISAAC FOSTER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Gladwin, Gladwin County. I have lived there ever since 1881. I have met the defendant, Paul King, a couple of times. I think the first time that I met him he was Secretary of the State Senate. I met him in 1918, during the primary campaign, at my office in Gladwin. He talked to me, in an incidental way, about supporting Senator Newberry in the primaries. He did not call upon me a second time. I had not informed him on the occasion of his visit whether I would or would not support Mr. Newberry. I had not at that time made up my mind as to what I would do in the Senatorial Campaign. Later I was made the executive officer of the local Newberry organization in my county. I was nominally called the Chairman. After that time I received a draft for $100 from the Newberry Senatorial Headquarters. It was about the middle of August somewheres, but I could not be accurate about that. It was about two weeks before the primary. This money was expended by me in auto expenses and interviewing some of the people around the county in canvassing. There was some printing expenses, and I sent out some postage, and I expended some money in employing boys to circulate literature.

CROSS EXAMINATION BY MR. LITTLETON:

I am Judge of the Probate Court in Gladwin County.

OLIN J. BAKER, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live at 1416 Sherman Street, Grand Rapids. I am a photographic dealer. I recently made photographs of some written signatures of names. Government Exhibit No. 129, now shown me, is an enlarged photograph made by me this morning from documents furnished me by Mr. Ferguson. Mr. Courtney was with him. The three names on the outside cover of the paper marked Government Exhibit No. 125, now shown me, were used for the photograph marked Government Exhibit No. 129. Government Exhibit No. 128, now shown me, is also an enlarged photograph made by me today. The documents were produced

by the same persons who produced the other. Lines 10
23 on Government Exhibit No. 125 and line 20 on Governm
Exhibit No. 124 and the name "R. H. Fletcher" on the fron
Government Exhibit No. 127 were used to make the photogr
The name that I speak of on this Exhibit No. 127 is on
bottom of Exhibit No. 128. The photographs now shown
marked 128-A to 128- inclusive, are photographs of wh
Exhibit No. 128 is an enlargement. They are contact pr
from the same negative. Photographs marked 129-A to
inclusive, are the contact photographs from the same nega
from which Government Exhibit No. 129 is made. These
tact prints were also made today from the same document
which I have referred.

FRANCIS B. COURTNEY, being sworn as a witness on
half of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit. I have been a resident of Michigan al
eight years. My business location at Detroit is at 163 Pac
I am a handwriting expert and an examiner of disputed do
ments. I have been engaged in that line over twenty ye
My profession has been that of penmanship, and in connec
with that the study of documents and the preparation by st
of the different books upon the subject and by experience
am also the author of a work upon the subject. I have had
perience in the courts of Kentucky, Texas, Iowa, Nebra
Illinois, Wisconsin, Ohio, Michigan and Canada, and in
federal courts as well as state courts. I was recently reque
to make examinations and comparisons of writing, in res
of signatures upon certain petitions filed theretofore in the o
of the Secretary of State of Michigan in behalf of James
Helme, a candidate for United States Senator, at the prima
of 1918. At that time Government Exhibit No. 99 was sh
me, being one of the exhibits introduced on this trial. In
nection with my examination I also was shown certain
registers that are here marked Government Exhibits No.
126-A and 126-B, and my attention was there called to
name of R. H. Fletcher of Bay City. The Helme petit
marked Government Exhibits No. 124 and No. 125 were sh
me in connection with the investigation that I was making

Q. Calling your attention to Government Exhibit No.
you may state whether or not you made comparison of
names appearing upon the first page of that with a view to

termining whether they had all been written by the same hand or by different persons.

MR. LITTLETON: That is objected to on the ground that whatever may be the purpose of this proof, to whatever extent, it may go, as given by this witness, that the evidence of any act of the particular respondent done at the time and under the circumstances charged or claimed, or which may be claimed from the evidence, is not an act within the issues of the indictment, does not tend to establish any charge contained in the indictment or any counts of the indictment. Therefore should not be received particularly as against any other person charged in the indictment.

THE COURT: It will be received.

MR. LITTLETON: An exception.

A. I did.

Q. What is your opinion as to their all having been written by the same hand?

MR. LITTLETON: That is objected to, if the Court please, on the ground that it is a comparison, calling for testimony that is wholly speculative.

THE COURT: I take it it is a comparison of the different names appearing on that sheet each with the other. You may answer.

MR. LITTLETON: I except.

A. They were written by the same hand. (The witness continuing) the remaining written matter upon the first page, other than the names I have testified to, is all written in the same hand in which the names are written.

MR. LITTLETON: I take it that the witness when he says it is written by the same hand is giving his opinion and stating something of which he had no knowledge.

THE COURT: Certainly, he had no knowledge of it.

THE WITNESS (Continuing) The first three lines on page 2 of Government Exhibit No. 124 are written by the same hand as page 1. From line 2 to and including line 25 of Government Exhibit No. 125 is in the same handwriting as all of page 1 of Government Exhibit No. 124. The entire handwriting on both pages of the document marked Government Exhibit No. 130, now shown me, being one of the James W. Helme petitions, is written in the same hand as the first page of Government Exhibit No. 124. I believe lines 1 to 12 inclusive, of the first page of Government Exhibit No. 131, being another of the Helme petitions, are written in the same hand as the first page of Ex-

hibit No. 124. In connection with my investigation and the comparison my attention was called to the name "R. H. Fletcher, Bay City", on Exhibits 126, 126-A and 126-B. I made an analysis of the written signature on these hotel registers and a comparison between those signatures and the names upon those petitions.

BY MR. LITTLETON:

In making the analysis for which I have just been asked by Judge Eichhorn, I used as the standard the signatures appearing solely upon the hotel registers marked Government Exhibit No. 126, 126-A and 126-B for certain portions that are in those. In arriving at any deductions or conclusions which I am to give, I used this exhibit, being the hotel registers, or the three sheets, solely as the standard on what I would give.

In making a comparison of the standard signatures of R. H. Fletcher on Exhibits 126, 126-A and 126-B, the capital letter "R" corresponds in formation with the capital "R" on line 6, line 9, Exhibit 124; line 15, 16 and 23 on Exhibit 125. In the form of the capital letter "H" on Exhibit 124, the 11th line, the 25th line and 21st. The form of the capital letter "F" with the curl at the top is found on Exhibit 124, line 11, line 24. The small letters "e" and "h" in the name "Fletcher" is found in the name Fletcher on line 10, Exhibit 125. The "h" has a tendency in the last part of having a backward slant. Also occurs on line 17 of Exhibit 124. The capital letter "b" in the word "Bay" with a blind loop is found in Exhibit 124, lines 5 and 22, Exhibit 125, line 18; and line 12, Exhibit 125. The style of the capital letter "C" commencing with a loop high up at the top also appears in the disputed document on line 2, Exhibit 124; also line 20, Exhibit 124; line 18, Exhibit 125; line 21 and 23, Exhibit 125. The photograph marked Government Exhibit 29 was made at my direction to cover a part of Government Exhibits 124 and 125. That grouping was made and that photograph taken for the purpose of showing the similarity of certain signatures about which evidence was to be adduced.

DANIEL J. CODY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Bay City, Michigan. I know the defendant, R. H. Fletcher. I am engaged in the banking business at Bay City,

and have been connected with the Farmers' State Savings Bank there four years. That is a bank with which Mr. R. H. Fletcher transacts business. My bank has a card bearing his signature and address. I have that in my possession. I have made some inspection of it since I was subpoenaed to come here. I have seen Mr. Fletcher sign his name and am acquainted with the signature.

The signature card produced by the witness was here marked "Government Exhibit No. 133".

THE WITNESS (continuing): The signature "R. H. Fletcher" attached to the printed certificate on the outside of each of the papers, marked "Government's Exhibit No. 127-I" and also the written name "R. H. Fletcher" on the first line inside, is the signature of the defendant Richard H. Fletcher. The signature "R. H. Fletcher" on Government's Exhibit No. 133 is the signature of the defendant Richard H. Fletcher. Each of the names "R. H. Fletcher Bay City" upon Government's Exhibits Nos. 126, 126-A and 126-B, which are the Morton House Registers, is the signature of the defendant Richard H. Fletcher. Some parts of the telegram marked Government's Exhibit No. 99 resemble Mr. Fletcher's writing, the "F" in Ford and the word "building". I think the written part of the body of the message is in the handwriting of Richard H. Fletcher. There is a difference between the signature on that telegram and his regular signature. I am not willing to say that the signature on that telegram is his signature. I think the word "Fletcher" on line 10 of Government's Exhibit No. 125, being one of the James W. Helme petitions, was written by the defendant Richard H. Fletcher. I could not say anything about the word "James." I make no pretense of being a handwriting expert.

CROSS EXAMINATION BY MR. LITTLETON:

I did not compare the word "Fletcher" on Government's Exhibit No. 125, on line 10, with the register of the hotel; I compared it with our signature card.

The signature card referred to by the witness was introduced and received in evidence and marked "Defendants' Exhibit No. 41".

FRANCIS B. COURTNEY recalled:

BY MR. EICHHORN:

I had the signature "R. H. Fletcher" on Government's Exhibit No. 127 photographed. That was done by Olin J. Baker,

the photographer who was on the stand just before I was. The name "R. H. Fletcher" taken from Government Exhibit No. 127 is the lower signature of the four signatures on the contact print now shown me. The name "R. H. Fletcher" appears on the first line on the inside of Government Exhibit No. 127, opposite the number 52. The printed word "Commissioner" follows the name "R. H. Fletcher" on that line. The name R. H. Fletcher on the first written line inside of Exhibit 127 is the fourth or lowest name on the photograph that has been placed before me; and the other three names on that photograph were taken from the signatures on the back of Exhibit 125, being the names "Roscoe S. Douglas", "James Fletcher" and "C. M. Novak".

MR. EICHHORN: We offer in evidence Government Exhibit No. 127, especially that part of it on the line opposite 52 on the inside of the page, the name R. H. Fletcher. It is one of the vouchers from the Auditor General's office.

MR. LITTLETON: I make the objection to the receipt of any of this evidence upon the ground that the act of Mr. Fletcher, if such an act be claimed or deduced from the circumstances, is not binding upon any other respondent in this case, and I except.

THE COURT: It will be the same ruling. I think you made the objection at the beginning of this testimony.

MR. EICHHORN: The part of this document which the Government introduces now begins with the figures "52, R. H. Fletcher". The word "Commissioner" follows. We offer also in evidence Government Exhibit No. 125.

THE COURT: It will be received in evidence.

THE WITNESS (continuing): I caused the contact print now shown me to be made. It was compiled from a part of Exhibit 125, including the name "James Fletcher". It also includes the name above that, "David Gaskins". There is also a portion of the letter "H". The name "R. S. Douglas" is from Exhibit 125 and the name "C. M. Novak" is a photograph of that name as it appears upon Exhibit 124. I have made further comparisons of the writing on pages 1 and 2 of Exhibit 124 with the name "R. H. Fletcher" as it appears on different documents that were exhibited to me. I have made comparisons with the signature "R. H. Fletcher" on Government Exhibit No. 133 now shown me, being a voucher for fees and mileage of witnesses in this court November 18th, 1919. I have made comparisons of the writing on the first page of Exhibit 124 with

the writing in the body of the telegram, Government Exhibit No. 99. I have also made comparisons of the writing on the first page of Exhibit 124 with the signature "R. H. Fletcher" appearing on the line opposite 52 in Government Exhibit 127.

Q. From your examination of the different signatures and writings about which I have asked you, assuming that the signature R. H. Fletcher on the Exs. 133, voucher and fees for mileage, and assuming that the signature opposite fifty-two on Gov. Ex. 127, and upon the hotel register, are the genuine signature of Richard H.Fletcher, you may state in whose handwriting the names on the first page of Ex. 124 are?

MR. LITTLETON: Just a minute. We object if your honor please to the opinion which is called for by the question. The Exhibits themselves are in evidence for the purpose of comparison by the Jury. The opinion called for is based upon or is obliged to be based upon first, the opinion of other witnesses that certain documents are in the handwriting of the defendant, Fletcher, and this opinion is required to assume that the opinion of the other witnesses upon that subject is correct, and then to base another opinion of this witness on that assumption and it is for him to say that resting upon that assumption he may say that still another disputed signature and unadmitted handwriting is in the handwriting which has been supported by the opinion of other witnesses. I quite understand where there is a standard of handwriting, disputed handwriting is offered, of course the opinion of experts is taken for assisting other people to arrive at a conclusion about it. I do not understand that his opinion may rest upon another opinion, and that expert testimony be given upon the second opinion upon that subject.

THE COURT: No, I think it comes fairly and squarely within the statutory rule.

MR. LITTLETON: I except.

A. In the handwriting of R. H. Fletcher.

THE WITNESS (continuing): The first three names on the succeeding page are in the same handwriting.

Government Exhibits Nos. 99, 124, 125, 127, 130 and 133, and the photographs which Robert S. Douglas, James Fletcher and C. M. Novak have testified are their genuine signatures alleged proven signature "R. H. Fletcher" on the pay roll; the photograph print of the

alleged spurious or forged signatures of James Fletcher, R. S. Douglas and C. M. Novak and Defendants' Exhibit No. 41 were here passed to the jury at the request of Mr. Murfin and examined by them.

THE WITNESS (continuing): All of the first page and three names on the second page of Exhibit No. 124 were, in my opinion written by Mr. Fletcher. The names from 9 to 25 on the first page of Government Exhibit No. 125 were written by the same person. There is no second page. As to Government Exhibit 130, the entire document, both first and second pages, 50 signatures, are written in the same hand, and, in my opinion, the first twelve names on Government Exhibit No. 131 are written in the same hand. There are certain characteristics that prevail largely throughout the writing or signature of any given person. Some of the special or particular characteristics in the signature or writing of R. H. Fletcher which aided me in arriving at the conclusion that the names upon these petitions which I have testified about were signed by him are the cap, that is the top, over the stem in the capital letter "F" in the name "Fletcher"—a curl, finish; also in the breaks in the continuity of letters; the style of the small letters "c" and "h"; the finishing "r" and the pressure used, that is, on the downward strokes of the writing; that is, taking the Exhibits that is photographed at the present. Of course, running throughout the handwriting of Mr. Fletcher there is a variation of course in the different forms of letters, but they are all characteristic habits. I made comparisons which showed marked similarity between the writing of the body of the telegram, Government Exhibit No. 99, and the writing on some of these petitions. One word in particular that I made comparison with was "King". On Government Exhibit 124, line 20, appears "C. M. Novak, 93 King Avenue". The name "P. H. King" appears on the telegram. That was one of the comparisons which I made. I also made comparisons with other forms or combinations in the telegram and with similar forms or combinations found upon these Government Exhibits.

CROSS EXAMINATION BY MR. LITTLETON:

When I gave the characteristics of Richard H. Fletcher's handwriting, I had in front of me Government Exhibit No. 129, and I was testifying from the appearances of the handwriting on Exhibit 129 in connection with the other documents that I examined. The pressure, downward and upward strokes and curves in Mr. Fletcher's signature or handwriting is significant

there. I have not got Mr. Fletcher's signature before me on Exhibit 129; just the disputed signature. I was drawing my deductions as to what Mr. Fletcher's handwriting was, and what the pressure was, and what the strokes were, and what the curves were, from the name of "James Fletcher". I had other signatures, I believe, at the time. Quite a number of signatures were laying here on the desk. It is a fact that I took this Exhibit 129 which contains the disputed signatures, and "James Fletcher" at the top, and looking directly at that, gave the pressure, the curves, and the strokes of Richard Fletcher's writing, when I was looking directly at the James Fletcher which is in dispute. I gave the pressure and the strokes from that Exhibit 129. I did not take the signature of Richard Fletcher himself which is on these pay rolls and which has been established by the evidence of the banker that it was his signature, instead of taking the disputed signature of James Fletcher and describing that as Richard Fletcher's signature, because I had the pen pressure from the examination that I made in mind. I had this one (exhibit 129) before me when I testified, but I did not have the other one before me when I testified. The left card, now shown me, contains the composite signatures in dispute taken from these petitions, James Fletcher, R. S. Douglas, C. M. Novak. That James Fletcher at the top is the James Fletcher which is on the petition, and this is a reproduction in photographic form; and so as to the other signatures . The other card which is to the right contains a photograph of the genuine signature, or admitted signature, of Roscoe Douglas, James Fletcher and C. M. Novak, and this James Fletcher in the middle of this card is the admitted signature of James Fletcher, and this James Fletcher on the left is the one on the petition and the one which is in dispute. I have had before me a telegram and have been asked as to the body of that telegram, but I was not asked anything about the "R. H. Fletcher" at the bottom of the telegram. That is not the signature of R. H. Fletcher. My testimony is that the body of the telegram is in the handwriting of R. H. Fletcher, but that the signature is not. I have compared the signature on the sheet of the hotel register (Government Exhibit 126), now shown me, "R. H. Fletcher", with the signature on the bottom of the telegram. I made measurements, deductions and inferences in regard to curves, slants, downward strokes and upward strokes. I also compared the signatures on the telegram with the signature on the last sheet of Government Exhibit 126-B. I gave as one of the character-

istics of Mr. Fletcher's signature the upward curve at the finish of the letter "F". I observed that on that sheet of Government Exhibit 126 the letter "F" has no upward curve in the word "Fletcher", but has a downward stroke directly. That is one of his habits. It is also a characteristic. In that particular instance, one of the characteristics that enabled me to identify his signature was the upward curve. I do not draw the habits of a writer by one signature. The "F" in the Fletcher on that page of Government Exhibit 126 is downward and not upward. The tendency of the "F" in "Fletcher" on the telegram is upward. I mean the end of the top of the "F" is on an increased slant. The finish of the top of that "F" is an over motion; it is going upward. When you go over far enough, it would come down, it would start down; it has a slight tick downward on the end. It is a different type from the signature "R.H.Fletcher" on the register. On Exhibit 126, in the genuine handwriting of R.H.Fletcher the capital letter "F" has a distinct downward tendency with a hook to the left. In the disputed signature on the telegram the cap "F" has an upward tendency, is a different line of direction and simply has a small tick downward at the finish; two different types of cap and different motions used in its production. Those signatures on that hotel register would be written in what I would term automatically; that is, there was not much thought given to the writing, not as much thought as given to the bank's signature, for instance. I do not determine these slants and motions from the position of the writer, whether he is standing or sitting or whether he is in a comfortable position or uncomfortable position. I would not know on the telegram whether the person was standing or sitting. The handwriting of a writer does vary, in some sense, according as to what his position is, sitting or standing, or comfortable or uncomfortable and that all depends on the individual.

The hotel register and the Exhibit that had been referred to as the name "Fletcher" on the first line on the inside were here passed to the jury by Mr. Littleton.

THE WITNESS (continuing): I said that Government Exhibit 124, which is one of the so-called Helme petitions, containing two pages of names and addresses and dates, twenty-five on the first page, and three on the second, was written by the same hand, and I also testified that, in my opinion, they were written by R. H. Fletcher. I spent some little time the other day at the table here indicating similarities and points upon which I based my opinion. I do not recall the number of the exhibit I was examining the other day here. I think I had all of

the exhibits. This may be the paper containing the first page and the three names on the next page which I spent my time on the other day here giving the similarities or resemblances out of which I was to be asked my opinion. There are three, so I do not know just exactly which one; I do not remember the exact number—whether I had the three or two, or what you were referring to; that is, what signatures I was examining making the comparison from. I was asked to take the petition containing something over a page of names, and I said the names were all in the same handwriting. This may be the petition. I used the three of them there. I pointed out from the three different ones the characteristics that were contained in the three different petitions in connection with the handwriting of R.H.Fletcher. This is one of the petitions I used. This is not the only petition in which I said a full page had been written in the same hand; there is another one there with two pages. I used this petition, amongst others, in pointing out what I called similarities or resemblances between the signature of Richard Fletcher and these signatures here. Taking that page and the three names on the next page, and by an examination of the various signatures which I have of Richard Fletcher, and from the examination of his signatures alone as a basis of comparison, I am able to say to this jury that Richard Fletcher wrote all of these names and the three names upon the next page. I observe this is all written in pencil. I undertook to point out the similarities between the names and the writing of the names on the page and three names on the next page and the signature R. H. Fletcher with Exhibit 124 before me, and using as a basis of comparison the hotel register, the similarities which enable me to give the opinion that the whole first page and the three names on the next page of Exhibit 124 are the characteristic form of the capital letter "R" in the signature on the sixth line of Exhibit 124. The ninth line of Exhibit 124 is in the characteristic form of the letter "H" at line 25 of the same exhibit. In the characteristic form of the letter "F", with its curl at the top, I refer to line 10,11 and 24; also with the drop curve at the top of the "F" on 13,3, and line 2 on the second page; the looped "l" on 12,2, 15 and 3 on the second page, and the characteristic form of the small letters "ch" on 17. The characteristic form of the ending "r" on 3 and 24 and 3 on the second page, and the characteristic cross bar of the capital letter "F" is on those three. I have pointed out the extent of my discovery of the resemblances between that page and three names of Government Exhibit 124 and the signature of R.H.Fletcher

on the hotel register, Government Exhibit 126-C, and on those that I have pointed out in the testimony in the last few minutes I have given my opinion that the man who wrote R.H.Fletcher on the hotel register wrote all of the names on the first page and the first three names on the next page of this petition. I pointed out on line 6 of the petition the characteristics of the capital "R" as resembling or having a characteristic similar to the capital "R" in the name of R.H.Fletcher on the hotel register. They are the same type of letter. Then I pointed out the characteristics of the letter "H" on line 25 of the petition. I had studied these names on this petition before I came on the stand, and I have made tracings of a great many. I have notations of my studies in front of me. I studied those names carefully and all the resemblances I could find. I have been doing that several days preparatory to testifying. I pointed out the characteristic form of the letter "H" on line 25. I said that the "H" bore a characteristic resemblance to the same letter in the "R.H.Fletcher" on the hotel register. Then I go to the letter "F" on lines 10 and 11. It may be possible that I connected the capital letter "H" on line 11, 21 and 25 of Exhibit 124 with the capital letter "F" on the same lines. The "H" is blurred in printing. I was looking at it today. I was asked to give all characteristics and resemblances and I only gave line 25 and not the other lines that I previously gave. I just overlooked it possibly. When I testified as to this Exhibit, I said the form of the capital letter "F" with the curl at the top was found on Exhibit 124, line 11 and line 24. I now say with reference to the same letter and the same subject that the capital letter "F" with the curl at the top is found on line 10, 11, 13 and 24 and line 2 of the next page. It was simply overlooked, that is all, if it is that way. I was previously asked to point out these resemblances and I pointed out two; I now point out 6. I know they were there, but I may have overlooked it going over it quickly and not pointing it out. In my testimony in reference to this very Exhibit, I do not think I mentioned this loop "l" that I have pointed out today. I did not discover it since; I knew it then. I believe I mentioned the ending "r" in reference to this Exhibit. I went on and said the small letters "t" and "h" in the name "Fletcher" was found in the name "Fletcher" in line 10 of Exhibit 125. We were using three Exhibits at that time, and we are only using one now. I was asked to state why I reached the conclusion that the man who wrote "R.H.Fletcher" on the hotel register wrote those names on that petition, and when I was formerly on the stand I was giving the things which had convinced

on so that I had an opinion, and I was giving all the things that I could give, or had in mind to give, to show how I had been convinced and how I reached that opinion from three different exhibits. This exhibit was one of them. The last thing I said was that there was a cross bar, and that the resemblance in the cross bar on the capital letter "F" was another one from which I based my opinion. I mean the cross stem of the "F" to make the "F" out of it with a tick finish. After making the cross bar in the "F" there is a tick finish—a downward stroke. That word "tick" may be known exclusively in my profession. I did not mention the cross bar with a tick finish. I simply mentioned the resemblance of the "F". When I was making the comparison of the Exhibits, I did not mention the cross bar with a tick finish. I knew it at the time. This Government Exhibit 130 is the petition on which I say the names on both pages were all written by the same hand and by the same hand that wrote "R.H.Fletcher" on the hotel register. I have made a comparison between this Exhibit 130 and Government Exhibit 124 and between these two sets of names on these two exhibits, with a view of determining if they were written in the same handwriting. I then compared Government Exhibit 130 with the name "R.H.Fletcher" written on the hotel register. I have studied Government Exhibit 130 and been over it very carefully. I find in Government Exhibit 130, in the two pages of names which bear characteristic resemblances to the name "R.H.Fletcher" and on the hotel register, the same resemblances which enable me to give the opinion that the man who wrote the name "R.H.Fletcher" on the hotel register, wrote those two pages of names. The same characteristic form of capital "R" is found on line 3, and the characteristic form of "F" with the curl at the top on line 9, second page. The drop and the curl on the letter "F" is also found on lines 7 and 9 of Exhibit 130. The "er" is found on Exhibit 130, line 5 and 9. The characteristic small "h" is also found on line 11, 8, 9 and 10; line 1 also, second page. The capital letter "H" on 13; the loop "l" is also curled on 8 and 4, second page. I have given all of the characteristic resemblances between the names on the two pages of the petition, Government Exhibit 130, and the signature R. H. Fletcher found upon the hotel registers that I see at the present time. I made some record of what I saw before this, but not of some things. I have not got a record of everything. I made a record and careful study of these two pages of names as compared with the name R.H.Fletcher on the hotel register. I did not make a memorandum of everything I expected to testify to.

I made a memorandum so I could refresh my recollection
testify to the main features as I have given them now, touch
the number of resemblances and characteristics between th
two pages of names and the name R.H.Fletcher on the h
registers. On what I have given as to what appears in th
two pages, I am willing to give it as my opinion, in connect
with the other exhibits, that the same hand that wrote "F
Fletcher" on the hotel register wrote all those names. By t
I mean the other exhibits that I have examined in connect
with this, the entire three petitions. I am pointing out the ch
acteristics that are in the petitions in connection with the ch
acteristics that are contained in the three signatures "F
Fletcher" on those registers. But I am willing to give it as
opinion that the ones that I have indicated on these two pa
of Government Exhibit No. 130 were written by the same h
that wrote "R.H.Fletcher" on the hotel register. I made a co
parison of the characteristics contained in Government Exh
124, being the petition, the first page, in the three lines of wh
I have examined and which the jury has seen, with the two pa
of Government Exhibit 130. I say the same hand wrote h
of them. I compared them one with the other and made co
parisons of the resemblances and mental notations of them.
compared the names, the writing and the characteristics of th
two petitions, and I have tracings of characteristic letters t
occur in each, but not of all the names.

At Mr. Littleton's request the jury were here given
other petition of two pages which the witness had te
fied to, along with the one they had, as being the petit
to which the witness' testimony just given relates.

THE WITNESS (continuing): My profession is testify
and giving opinions on disputed writings, and I am paid for
services. I will be paid for my services here in making
examination of these documents and giving my testimony
reference to them. I have made no arrangements whatever
to my rate. When I am through, I will submit a bill for
proval. I do not know for how much.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

In arriving at my ultimate conclusion as to the person w
signed these petitions, I did not limit my research to the co
parison between the hotel registers and these petitions. I a
examined the vouchers and the telegram and the pay roll vou
ers; and it was from an examination and comparison of

body of the telegram, the name on the pay roll voucher, the name on the witness fee voucher and those other signatures that I formed my ultimate conclusion.

ALPHEUS A. POOL, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Detroit. In the primary campaign of 1918 I went to a church meeting at Albion, Michigan, with the defendant Charles Campbell, and he and I addressed it on behalf of Mr. Newberry. Before that time I had gone to the Speakers' Bureau in the Ford Building, and they said Mr. Chilson will have to pass upon it; he had not passed upon going up there. I did not see Mr. Chilson after it was over. Before I went, if my memory serves me right, I do not think Mr. Chilson ever told me to go anywhere. I talked to him about making speeches for Mr. Newberry. I do not know how long it was after these speeches were made by Charles Campbell and me that I went back to the Newberry headquarters in Detroit. I was paid something there at the Newberry headquarters. I do not know how much I received; it was something more than the railroad fare—somewhere between $15 and $19—something like that; I had a dinner—something more than railroad fare. I do not know whether it was a Baptist Church, but it was a colored church.

LANGLEY S. FOOTE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Saginaw since 1863. My occupation is that of a newspaper man. I am the editor of the Saginaw Valley Farmer, which is a monthly publication, and was during the year 1918. The Saginaw Valley Farmer had a contract with Paul King, chairman of the Newberry Senatorial Headquarters at Detroit for publishing their advertising during the primary campaign of 1918. The rate was approximately $10 by the quarter page. We ran this advertising during June, July and August, 1918. I think the bills were sent in at the conclusion of the advertising period, along in September. There were fifteen advertisements, separate items, during the three months. They were not entered in any month, but in one entry. The total amount of our bill was $217. It was paid November 13th, 1918. I cannot tell whether it was paid by the Newberry Senatorial Committee. A check came at that time from the parties who

had been sending the advertising and made the contract. It w
made originally with Paul H. King, I think, as chairman
Newberry Volunteer Campaign Committee. The advert
ments do not include certain reading items that might perh
be mistaken for advertising. There was one I noticed ab
Mr. Newberry in the war with Spain; that is not an advertisi
not the cartoons, but there were fifteen regular display adv
tisements—electrotypes.

VALENTINE S. BOOS, being sworn as a witness on beh
of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have been a resident of Saginaw for pretty near thirty ye
I am a publisher of the Saginaw Journal, a German paper.
was the editor and publisher of that paper in 1918. My pa
had a contract with the Newberry Senatorial Committee for
running of the advertisements of Mr. Newberry during the p
mary campaign of 1918, at the rate of fifty cents an inch.
received $75 upon that contract. The first payment was J
12th, $36, for advertising in June, August 13th, $27.25
August 17th $11.75. The Newberry advertising was run r
ular every week during June, July and August, one issu
sent copies of the paper to the Newberry Senatorial headquart
each time. This was all plate display advertising in the E
lish language. I ran a notice in German before the nominat
and after the nomination, announcing before the nominat
that Mr. Newberry is a candidate for nomination, and after w
his cut on top of it, and after that, that he had got the nomi
tion with a few lines besides in German. My paper was p
lished during that time in the German language.

CROSS EXAMINATION BY MR. MURFIN:

The paper now shown me marked Defendants' Exhibit 42
the contract for the advertising. My paper is the Saginaw Jo
nal. It calls for 150 inches.

The paper referred to by the witness was offered, a
received in evidence and read to the jury as follows:

DEFENDANTS' EXHIBIT NO. 42

May 10, 1918.

"The Truman H.Newberry Senatorial Committee agr
to use a total of 150 inches of space in the Saginaw Jo

nal, 111 Lapeer Ave., Saginaw, Mich., between May 25, 1918, and September 1,1918, for which it agrees to pay at the rate of 50 cents per running column inch" and so on. Signed, "The Truman H. Newberry Senatorial Committee" by "H.A.Hopkins, Director of Publicity."

THE WITNESS (continuing): The advertising was discontinued in the early part of August. What was published was sent in plate form, and after the first issue in August I received no more plate. I did not get a letter from anybody telling me why they ceased to send the plate.

GEORGE A. GLERUM, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I am cashier of a bank at Evart, Michigan, Osceola County. During the primary campaign of 1918, I was requested by Mr. King to do something in connection with the Newberry campaign in my county. I think Mr. Charles Floyd was with him when the request was made. I afterwards saw Mr. Floyd at Evart in connection with the campaign. I had told them I would assist them at the time they talked to me. I cannot give the time at which this conversation between Mr. King and Mr. Floyd and myself occurred. It was early in the season of the campaign. I do not recall whether when I saw Mr. Floyd the second time, he gave me any money. He did give me about $70 during the campaign which I used for postage and distributing literature and for auto hire. I do not know how much was paid for hauling voters to the polls on primary day. That was looked after by others. I cannot say that I employed them; I arranged with them to do it. I told them that I would take care of the expense, and I paid the automobile hire and the men for their services.

H. DALE SOUTER, being duly sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Grand Rapids and am a lawyer. I am special Assistant Attorney General in this case and appeared before the Grand Jury in that capacity. I made notes of the testimony of the witnesses who appeared before the Grand Jury at the time they were testifying. Those notes were taken accurately.

The defendant Frank Blair was a witness before the Grand Jury. He was asked if he was willing to voluntarily testify,

waiving his rights, telling the truth, the whole truth, and nothing but the truth; if he was willing to testify without any promise of any kind, and he was told that his testimony was going to be used for any and all purposes. He said he was willing to testify under those conditions. He was afterwards sworn and testified before the Grand Jury. I took notes of his testimony, which are now before me. Mr. Blair had with him the pass book of the Commonwealth Federal Bank, the cancelled checks, list of contributions, the voucher records, which were the records of the Newberry Senatorial Committee. The vouchers now shown me marked Government Exhibit 134 are the vouchers that Mr. Blair delivered to the Grand Jury at the time that he was there. They have been kept and retained here under my supervision. The two books now shown me marked Government Exhibits No. 135 and 136, respectively, were delivered to the Grand Jury by Mr. Blair. He also delivered to the Grand Jury a copy of his report. He kept the checks until the last and then produced all of the record which he had rolled up in a bundle with a wrapper around them, and they were not opened until after his formal testimony had been finished. The records had all been kept by the Senatorial Headquarters, and these were the records turned over to him. They were exhibited to the Grand Jury as a complete record of everything that they had turned over to him. He had no further knowledge than just what was there; he did not prepare it and had nothing to do with the preparing of it.

Mr. Blair also turned over to the Grand Jury the bank book showing the deposits in the bank. The book now shown me is the bank book that was brought in by Mr. Blair at that time. The paper now shown me marked Government Exhibit No. 139 is one of the daily statements of the bank brought in and exhibited by Mr. Blair at that time as a part of the papers he produced for the Grand Jury. The only thing I can testify concerning any of these papers is the fact that Mr. Blair produced them. The ten checks in this bundle now shown me, marked Government Exhibit 140, were produced by Mr. Blair before the Grand Jury. He also delivered to me there the typewritten statement now shown me marked Government Exhibit No. 141; beginning August 16th and continuing through to September 6th, and the statement of disbursements, beginning August 20th, and continuing through to September 7th. There was also furnished by him the third sheet of this exhibit, which was the statement of the disbursements made by the Union Trust Company for postage and otherwise out of their own account, which was

afterwards paid by check on the Treasurer's account. He purported to turn over to us a complete statement of the transactions with the Union Trust Company, and everything turned over to him by Mr. Emery concerning the transactions with the Commonwealth. The subpoena called for all records of any kind or description. I do not recall his stating being with a Representative of the Department of Justice. I do recall his statement that he had gone to the records of the Union Trust Company and obtained everything he could find connected with the Senatorial Committee. I have been active in the preparation of the trial of this case since October 15th, 1918. That was the date of my special appointment on this case. In the Grand Jury I acted with Mr. Dailey, both in the examining of witnesses and taking notes, and since the Grand Jury was over I have been going over the testimony, looking through for matters for further investigation, through my notes, checking up on witnesses.

Mr. Dailey here offered in evidence Government Exhibit No. 138, being the pass book of the Commonwealth Savings Bank, which was received and read in evidence as follows:

GOVERNMENT EXHIBIT NO. 138

COMMONWEALTH SAVINGS BANK, Hammond Building, Fort and Griswold Streets, Detroit, Michigan. In Account with Truman H. Newberry Senatorial Committee."

These are deposits.

1918	
Mar. 23	1000
29	1000
Apr. 6	3000
10	3,000
17	4000
24	6000
May 9	2000
14	1000
24	1000
Jun. 1	2000
11	2000
13	2500
20	1000
24	2000
26	2500

July	2		3000
	8		5000
	10		5000
	11		2000
	12		10000
	17		2000
	22		3500
	25		2000
Aug.	8		2000
	10		8000
	14		7400
	16		2500
	19		3500
	20		500
	23		5000
	24		5000
	26	105,400	5000
Sep.	4		10000
	6		28956
	6		13000
	6		11500
	7		10000

MR. Dailey then offered in evidence Government Exhibit No. 141, which was received and read to the jury, as follows:

GOVERNMENT EXHIBIT NO. 140

UNION TRUST COMPANY

Detroit, Michigan, Aug. 20, 1918. No. C56305.

Pay to the order of Commonwealth Savings Bank, Detroit, $500 Five Hundred Dollars.

To the Peoples State Bank

Detroit, Michigan.

John N. Stalker,
Vice President.

G. E. McNehan,
Secretary,
Trust Officer.

$5,000.00
$5,000.00
$5,000.00
$5,000.00
$5,000.00
$3,000.00
$10,000.00
$28,956.00
$11,500.00

Mr. Dailey then offered in evidence Government Exhibit No. 141, which was received and read to the jury, as follows:

GOVVERNMENT EXHIBIT NO. 141.

UNION TRUST COMPANY

Statement of Account
of
Frank W. Blair, Treasurer T. H. N. a/c
Deposits.

1918			
August	16	Emory W. Clark	100.00
		Elizabeth L. Clark	100.00
		Richard P. Joy	100.00
		H. B. Ledyard	200.00
		Alger Brothers	1000.00
		F. J. Hecker	1000.00
		Fred J. Moran	100.00
August	19	A. Victor Barnes	10000.00
August	20	Citizen of Ludington, Mich.	1.00
		Henry B. Joy	1000.00
		H. Scherer & Company	100.00
		William C. Mather	1000.00
"	21	Keeler Brass Company	25.00
		S. W. Utley	10.00
		E. P. Hammond	50.00
		G. M. Carter	50.00
		A. Victor Barnes	10000.00
	22	A. Victor Barnes	10000.00
	23	Joseph Boyer	50.00
		John M. Bagley	50.00
		Paul F. Bagley	50.00
		Henry M. Leland	100.00
	26	W .W. Johnston	50.00
		C. M. Rochm	50.00
		David Whitney, Jr	250.00
	28	J. T. Kenna	100.00
		John G. Rumney	100.00
		A. F. Buhl	250.00

	29	E. F. Roberts	25.00	
		F. R. Robinson	10.00	
		F. L. Jandron	5.00	
		W. D. Walker	5.00	
		F. J. Druar	5.00	
		G. H. Brodie	5.00	
		John D. Wilson	5.00	
		J. J. Marks	5.00	
		C. H. Vincent	5.00	
		John R. Bodde	25.00	
		F. G. Eastman	5.00	
		C. S. Hare	25.00	
		Forward,	$36,011.00	
1919				
August	29	F. H. McKinney	5.00	
		D. G. Stanbrough	5.00	
		C. J. Shaar	5.00	
		Frank Blandon	5.00	
		Milton Tibbetts	5.00	
		George C.Roifel	5.00	
		C. R. Lester	5.00	
		F. G. Eastman	5.00	
		G. G. Moore	10.00	
	30	Mary W. Sayles	200.00	
	31	J. E. Locker	5.00	
		R. B. Smith	5.00	
		A. W. George	5.00	
		H. Lansadale	5.00	
		F. W. Blair	100.00	
Sept.	3	Alex. I. Lewis	50.00	
		Henry E. Bodman	100.00	
		S. S. Kresge	100.00	
		Cooper Wood	100.00	
		A. R. Demory	200.00	
		Alvan Macauley	250.00	
		Enoch Smith	25.00	
		A. Victor Barnes	15000.00	
	4	Henry B. Joy	5000.00	
		J. D. Lynn	50.00	
		Harry J. Dean	100.00	
		Henry M. Campbell	100.00	
		Helen B. Joy	10000.00	
	6	Henry B. Joy	11500.00	78,956.00

DISBURSEMENTS

1918					
Aug.	20	Deposit in Commonwealth Savings Bank			500.00
	22	"	"	"	5000.00
	23	"	"	"	10000.00
	26	"	"	"	10000.00
	28	"	"	"	3000.00
Sept.	3	"	"	"	10000.00
	6	"	"	"	28956.00
	7	"	"	"	11500.00
					78,956.00

CERTIFIED CORRECT
UNION TRUST COMPANY
By John M. Stalker,
Vice-President.

UNION TRUST COMPANY
Statement of Disbursements made for Account of
FRANK W. BLAIR, Treas.

1918				
Aug.	20	W. J. Nagel, Postmaster Stamps and post cards	$1,360.00	
Aug.	21	Stamps and post cards	1,102.45	
		E. V. Chilson, Reimbursement of amount paid Geo.S.Ladd for services as speaker	450.00	
Aug.	22	B. F. Emery, for postal cards and sundry postage	530.00	
Aug.	23	W.J.Nagel, Postmaster Stamps	125.00	
Sept.	6	Frank W.Blair, Treas., Amount received in re-payment of above items		$3,567.45
			$3,567.45	$3,567.45

JNS/WH

WESLEY M. BENNETT, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I reside at Pittsburg, Pa., and am an accountant connected with the Department of Justice of the United States. In that capacity, I have been so employed nearly eleven years. I had

submitted to me what purported to be the books of the Truman H. Newberry Senatorial Committee—Government Exhibits 135 and 136, also what purports to be a certified copy of the report of Frank W. Blair, Treasurer of the Committee, marked Government Exhibit No.60, and I have made an examination and an analysis of both the books and the reports. I made notes and summaries of the various classes of items and amounts that I examined and ascertained in this examination and analysis. The amounts that I found under various classes of expenditures were not the same in the books and in the report. In all instances, I made a general grouping of items of postage as shown by both books and the report. The amount shown by the books to have been expended for postage was $23,342.45; in the report $21,099.18 is stated as having been expended for postage. Under the heading of "Subscriptions to Newspaper", the books of the Committee show $528.65 and the report shows $451.05. The item "Rental for Headquarters rooms" is the same in each, namely, $1,875.01. Under the head of "Telegraph and telephone", $721.05 was shown by the books of the Committee. In the report $1,514.13 is shown in two items, $721.01 and $793.13. The second item of $793.13 was stated in the report under the head of "Expenses of County Committee for Telephone and Telegraph". In connection with the procuring of voters lists, the amount shown by the books to have been expended was $394.44, and the report shows $399.07. Under "Payments made to Township Clerks" $855.82 is shown by the books and the report shows $692.79. Under the heading "Newspaper Advertising", the books show payments of $45,163.33, and the report filed by the Committee shows $45,728.08 was expended; also an additional sum of $702.77, which was stated in the report as "Expense of County Committee in connection with newspaper advertising". Under the head of "Speakers" $809.08 was shown by the books to have been expended, and the report showed $772.08. The matter of an attorney fee of $500 was the same in the report and upon the books. "Stationery, Supplies and Miscellaneous" was shown by the books to have cost $9,144.89, and by the report $8,541.24. "Cuts, Engravings and Photos" were reported in the books at $548.07, and in the report at $479.80. "Printing" was shown at $22,268.83 in the books, and in the report at $23,562.76, with an additional item of $1,455.35, stated to be "Expense of County Committee for printing". The item for "Mimeographed Letters" was the same in the books and in the report, namely, $12,301.60. "Traveling Expenses" were itemized to Paul H.

king in the books $980.89, and in the report $980.98; C.L.Silben, $816.59, both in the books and the report; J.B.Haskins, $174.20, both in the books and the report; H.A.Hopkins, $150, both in the books and report; Thomas Phillips, $255, both in books and report. An additional item of "Traveling Expenses" is shown in the report on account of various individuals amounting to $5,062.70. That is not shown specifically in the books anywhere. In the report it is charged as follows:

Charles A. Floyd, Secretary	$1,084.00
B. F. Emery, Assistant Secretary	251.10
C.R.Davis, Assistant Secretary	350.00
E. V. Chilson, Assistant Secretary	114.50
A. K. Moore, Assistant Secretary	651.50
Terry T.Corliss,Assistant Secretary	745.00
Jas.F.McGregor, Assistant Secretary	599.60
B. F. Reed, Assistant Secretary	450.00
B. C.Wilson,Publicity Representative	25.00
H.W.Bice, Publicity Representative	100.00
A.G.McEachron,Publicity Representative	50.00
E.E.Smith,Publicity Representative	100.00
E.O.McLean, Publicity Representative	542.00

The pay roll record (Government Exhibit No. 135) shows a total of "Salaries and Wages" $35,435.39, and is divided under the head of "Publicity Department" $8,315; under "Clerical help at headquarters" $16,871.73; under "Clerical help Wayne County" $3,623.66; and "Township Secretaries" $6,625, making a total of $35,435.89. Nothing is charged in the books for salaries and wages to County Committee and nothing is charged specifically in the books under the head of "Distribution of Literature". The amount shown in the report for salaries and wages—$33,997.15—is shown under the following departments:

County Committee	$4,071.89
Publicity	8,315.00
Speaker's Bureau	1,789.55
Newspaper Advertising	3,597.10
Distribution of Literature	894.28
Mailing Letters	10,791.31
Voters Lists	894.27
Salaries, and Compensation not otherwise charged	3,643.75
Making the aggregate of	$33,997.15

I found in the report some general items that I did not corresponding items for in the books, as follows: Under head of—

Light, General Expense, County Committee	$1,129.43
Public Meeting Expense County Committee	1,274.30
Canvassing Voters and Tabulating Lists	2,889.25
Distribution of Literature County Committee	5,117.26
Travelling Expense County Committee	1,665.05
Expense of Assistant Secretary Speaker's Bureau	1,987.50
Expense of Assistant Secretary's on account of Public Meetings	993.75

making an aggregate of $15,056.54 for that general item.

The total aggregate of all the items that I have testified al in the report to this point is $176,568.08. I have grouped the items appearing in the report under some one of the sev heads about which you have inquired. I did not find in the port any item charged against Guy Ingalls for addressing velopes. There was such an item on the books; the amo was $750. This item does not appear in the report under head of "Mimeograph letters". There was an item of 950.56 on the books charged against Curtiss & Hyde under head of Mimeograph letters. The amount of Curtiss & Hyd shown in the report as $6,700.56. The difference between books and the report on that is $750.00, and that is the amo of the Ingalls' item in the books. There is no specific head entry in the report showing the following payments to the eral persons below specified:

Archie Anderson	$125
Frank P. Bohn	$ 150
DeWitt Brown	$ 50
Gladstone R. Beattie	$ 147
Thomas Bigger	$ 300
Albert H. Burger	$ 500
James B. Burns	$ 400
Joshua Boyd	$ 100
James B. Bradley	$ 450
Christian Brock	$ 125
Peter T. Brady	$ 10
Zalie B. Clago	$1725
Charles A.Campbell	$ 110

Foster Cameron	$ 50
George Carrigan	$ 50
Willis V. Capron	$ 75
William S. Crebassa	$ 160
Charles L. Carpenter	$ 134
William Connelly	$1200
Ray E. Colwell	$ 900
John Cawood	$ 600
Frank L. Covert	$ 500
James R. Davis	$2600
Mel R. Deo	$ 50
James Deevy	$ 60
John W. Dunn	$ 100
Earle J. Davis	$ 200
Charles Deland	$1095
Fay G. Dunning	$ 850
Frederick J. Derrick	$ 100
Earl Fairbanks	$ 200
Edward Fehling	$ 500
Charles H. Farrell	$ 275
August Field	$ 600
James F. Fisher	$ 750
Roman F. Glocheski	$1000
Alexander C. Green	$ 170
Frank O. Gilbert	$ 200
Edwin Goodwin	$ 175
Frank Guinan	$ 50
Benjamin Gero	$ 100
James W. Helme	$ 200
John M. Harris	$1200
J. Scott Hunter	$ 600
Dudley C. Houk	$ 167
Guy L. Ingalls	$2700
George W. John	$ 450
Fred L. Keister	$ 200
George S. Ladd	$ 350
E. Bruce Laing	$ 40
William E. Lewis	$ 180
Daniel C. Laughlin	$ 100
Allan K. Moore	$3569
Harrison Merrill	$ 450
Henry Myers	$ 250
Carl Mosier	$ 60
Emory Mills	$ 250

Carl B. Matthews	$ 300
Hugh Maddigan	$ 150
William J. Mickel	$ 520
Edward O. McLean	$1800
Silas J. McGregor	$ 150
Fred M. Northrup	$ 135
Edward Novak	$ 176.1
Milton Oakman	$20,000
William Priedeu	$ 125
Rolla Prescott	$1300
William E. Rice	$ 250
George E. Rogers	$ 125
John C. Rittenhouse	$ 160
Carl A. Reading	$ 400
Elmer E. Smith	$ 550
Ernest C. Smith	$ 192.5
William H. Smith, Jr	$ 125
Myron J. Sherwood	$1600
James Swain	$ 35
Louis L. Thompson	$ 250
Charles Tufts	$1700
Robert Tetro	$ 260
Albert Taylor	$ 5
George W. Welsh	$2500
Arthur H. Wentz	$ 100
Glenn H. Williams	$ 350
Paul Woodworth	$ 175
Elmer E. White	$ 247
Neil R. Walsh	$ 525
Judd Yelland	$ 10

except in the following instances: The report shows in c
nection with the name of Zalic B. Clago the sum of $1,562.50;
connection with James R. Davis shows $2,083.20; in connecti
with Allan K. Moore it shows $2,226.50 and in connection w
Elmer E. Smith $100.00 and Elmer E. White $17.00. As
from those items the others do not appear in the report.

There is no specific item in the report covering the followi
additional amounts paid to the persons named:

William Bennett	$ 5
Myron A. Barber	$150
Alexander Bath	$150
Alexander W. Bissland	$ 50
Frank M. Bovee	$ 20
Marshall Campbell	$ 15

Sherman Collins	$300
Herbert W. Davis	$100
Orville Dennis	$ 35
James Dillon	$ 60
Frank DeCamp	$ 20
Louis Desotell	$ 10
Isaac Foster	$100
George A. Glerum	$ 60
Thomas H. George	$200
Max J. Herman	$ 28
Marius Hanson	$ 50
Roy Herald	$175
Dr. C. W. Johnson	$ 30
J. Burt Kiely	$ 50
John E. Kern	$400
John Karel	$ 50
August Kelly	$216
Terry Kelly	$ 50
Oscar E.Kilstrom	$ 25
August Kleibusch	$ 25
Van Loomis	$ 2.50
John Leaveck	$ 10
F. E. Morrison	$ 50
A. E. McEachron	$ 850
Charles Nawrot	$ 80
Francis Piaskowski	$ 25
James Quinland	$ 25
Charles J. Quade	$ 9.60
M. E. Richardson	$ 60
Clyde L. Ross	$240
Claude E. Shannon	$ 15
John J. Smolenski	$ 42.20
Margaret Simmons	$ 60.00
Harry Vizer	$125
W. H. Yearand	$200
Ben Zoet	$180
G. R. Murray	$450
International Film Service,Inc. of New York	$2,031.25
Dawn Master Play Co.,of Detroit	$3,250.00

with the exception that as to Roy Herald the report shows $90.00. As to A. E. McEachron it shows $700.00, and as to G.

R. Murray it shows, under the head of "Railway Signal" $250.00. The other items do not appear specifically in the report.

This matter of McEachron's shows a payment to him of $650 payroll, and $50 traveling expense. The $650 is shown in the report under the head of pay roll, leaving a surplus there of $150. The report shows nothing with reference to the Dawn Master Play Company. The amount shown with reference to Zalie B. Clago is $1,562.50 instead of $1,725, leaving $162.50 not included; and in Davis $2,083.20 instead of $2,600, leaving $425; Allan K. Moore $1,517.75 instead of $3,569.00, leaving an amount of $1,342.50 not included; E. C. McLean $542 instead of $1,800, leaving $1,258 not included.

MR. LITTLETON: I think it ought to be made clear that the list of names which Judge Eichhorn read, and the amounts which he has asked the witness now to make a footing of are amounts which must not be assumed to be established in the case. In other words, I would not want it to go that there is no challenge of these items made here.

THE COURT: It is taken for granted that you are challenging the items. So far as the last list is concerned, unless I am mistaken, and if I am, counsel will correct me, it refers to items which the Government claims are shown by the testimony heretofore given in the case to have been paid by these individuals. The cross-examination of the witness will show whether it is true or not.

THE WITNESS (continuing): Taking in the case of Zalie B. Clago only the $162.50, the case of James R. Davis only the $425, in the case of Allen K. Moore only the $1,342.50, in the instance of Edward O. McLean only $1,258, in the instance of Elmer E. Smith only the $450. Eliminating these differences which aggregate $4,308, in addition to the items I have stated, the total amount is $64,534.20.

That is the total, omitting any amount shown in the report charged against any of these persons whom I have named.

There are some general items. The amount of the general items and what those which might apply to any part of these respondents are the items of Rent, Light, General Expense County Committee, $1,129.43. Under the head "Public Meeting Expense, County Committee," an item of $1,274.30; Canvassing Voters, Tabulating List, $2,289.25; Distribution of Literature, County Committee, $5,117.26; Traveling Expense, County Committee, $1,665.05; Expense of Assistant Secretary, Speakers' Bureau, $1,987.50; Expense Assistant Secretaries on account of Public Meetings, $993.75; making a total of $15,-

056.54. I am giving the totals of the various items that appear in the report as a whole, without showing in detail as to who it might have been paid. For that reason, some of these expenditures or payments to individuals might be included in the items I have just referred to, which aggregate $15,056.54. And that is the only general items in the report which I think might include, or which, in my opinion, might include items covered in the $64,534.21 which I have testified about.

There is, neither in the report or in the books, any item under the head of "Circulating Helme Petitions," showing any payment to any person for that purpose, or any item for payments made to Mr. Helme, or to anyone for him. The books show an item paid the Dawn Master Play Company of $1,625.00, with an entry written in connection with the item "Collect and turn back to Committee." The entry appears under date of August 26th, "Dawn Master Play 1402, $1,625. Collect and Turn Back to Committee." The aggregate amount as shown by the report that was paid to or passed through the hands of Charles A. Floyd, either individually or as Assistant Secretary, is $12,263.72. The books show that $10,750.90 passed to him or through his hands, and according to the books approximately $8,000 of that came to him on September 6th. The report shows that $9,861.34 came to or passed through the hands of B. F. Emery, but he is charged jointly in the report, with H. O. Turner, with $19,059.74. There is no charge corresponding specifically to that in the books. Referring to H. O. Turner, $43.89 is charged to him specifically in the report, whereas the payroll record shows $1,743.25. The report shows $3,010.57 to have been paid to or through James F. McGregor; to or through James R. Davis $2,083.20; and to or through H. A. Hopkins $8,465.00.

CROSS-EXAMINATION BY MR. SMITH:

When I referred to the books, I referred to Government's Exhibit Nos. 135 and 136. The one is the list of payments and the other is the payroll record. Government's Exhibit No. 135 purports to be a record of the payroll, week by week, during the campaign, including the headings Assistant Secretaries, Wayne County Clerical, State Headquarters, Publicity, Clerical, and Publicity State Committee. When I refer to the books, the items which I have deduced from the books are made up from these two exhibits. The items in my deduction of $64,534.21 included purported payments; money purported to have been received by the individuals named, which did not appear in the re-

port specifically. If the individual appeared in the report. I included in: my total the excess over the amount, or the excess I was told was paid to him over the amount as it appeared in the report. I did not read the testimony to get these amounts. The Government Attorney furnished the several amounts to me, and I made no deductions, so far as I am concerned, and came to no conclusions as to what evidence showed as to the several amounts which I added together to make the $64,534.21. These names were furnished me with the amounts, and I examined the books and the report to ascertain what was shown there with reference to those names and amounts. I did not make any assumptions. Those names were divided into two general divisions that he read, one long list of names of a larger amount and a second list of a smaller amount. I made no examination of the evidence to determine whether the second list of the smaller amounts appeared from the evidence in any way to have been paid to those individuals by the individuals that received the larger amounts stated in the first place. I can only state I was furnished a list of names and amounts. I do not know whether they are duplicated or not. I was simply furnished a list of the names and amounts, and I simply went over the two records and ascertained what it was. This $64,534 included one large item of $20,000—Milton Oakman. The items in the report which I read to make up that total of $15,056.54, I picked out of the report as items which were there described under headings which might include the payments which were a part of the $64,534.21. The items making up the $15,056.34 were as follows: Rents, Lights, General Expenses, County Committee, $1,129.43; Public Meetings, Expense, County Committee, $1,274.30; Canvassing Voters and Tabulating Lists $2,889.25; Distributing of Literature, County Committee, $5,117.26; Travelling Expenses County Committee $1,665.05; Expense of Assistant Secretary's Speaker's Bureau $1,987.50; Expense of Assistant Secretary's Account of Public Meetings, $993.75. I excluded from my computation making up the $15,056.54 the items in the report entitled "Newspaper and General Advertising Expense County, per Charles Floyd, $558.92, James McGregor $49.60, James R. Davis $2.50; B. F. Emery, $68.35; E. V. Chilson, $23.50. I included Rent, Public Meetings, Canvassing Voters, Distributing Literature, Travelling Expenses, Expense Assistant Secretaries, Speakers, and Expense of Assistant Secretaries for Public Meetings. I made my own deduction to exclude this item of approximately $702.77 County Committee Expense included in these five items because it paid for news-

paper advertising and I could not see where the names of individuals would appear in the names of newspapers. It is true that it says "Newspaper and General Advertising Expense, County Committee." I also excluded the next item $5,806.05 for "Expense of Publicity Department in connection with Newspaper Advertising per H. A. Hopkins, Director." I included that in my analysis in the clerical help. In my analysis of the report and the books, I found that the pay roll record showed that there had been expended $8,315 for salaries and help in the publicity department, and that the amount set out in the report for various purposes, newspaper advertising, distribution of literature, preparing letters, preparation of literature, aggregated exactly $8,315, including the $5,806.25. I had concluded that the $8,315 in the payroll record in the books was shown in that way in the report exactly, so therefore I included it in the list of general items. I have included the items under "Expense of distribution of literature in County," which immediately follows the list of items of subscriptions for the paper in my list of general items, taking these five items of Charles Floyd, $1,874.80; B. F. Emery, $2,799.21; James F. McGregor, $175; James R. Davis, $181.25; E. V. Chilson, $87.00; I included that in my list of general items under the item "Distribution of Literature, County Committee," $5,117.26. The item of $415.75 reported as having been spent in connection with the distribution of literature by H. A. Hopkins, is included in my analysis under the head of the payroll, the same explanation as made in regard to the $8,000. The item of payroll is not a part of the $8,056. There is $415.75 expense Publicity Department in connection with this distribution of literature that I included in the payroll instead of in these items. I have included the collection of items headed "Postage of County Committees" aggregating about $1,500 under "Postage," but not in the $15,056.54. I did not include the next group of items aggregating about $1,300 for printing and stationery for county committees; so that is not a part of the $15,056.54, nor did I include the item "Clerical Expenses for County Committee" aggregating about $4,000; I included that under "Payroll," so that is not in that $15,056.54. That is all "Clerical Expense of County Committee." That is the only place I could find where it would appear. There is also in that item about $4,000 that I do not give credit for in that $15,056.54; I include that under payroll.

Returning to the item of $64,534.21, eliminating the Oakman item of $20,000, we would have left $44,534.21. While the item of $64,534.21 of claimed excess payment to individuals of

the state might be cut down by items like those that my attention has been called to, a discrepancy would appear in the amount of the payroll as shown by the payroll record. I examined the payroll record and have an alphabetical list of everybody that was paid. I examined it to ascertain whether any of those names appeared on the payroll record; and where I found it appeared, as in connection with Clago and some others, I made the deduction. But I do not know whether anybody on the payroll record used that money to pay any of these other individuals; so if we reconcile this $4,000, in eliminating the duplicated items, my explanation is that that would leave a discrepancy in the report of the payroll. The total amount of the payroll items as they appear from the payroll book is $35,435.39. Assuming that I find in the report the full amount of $35,435.39, any items beyond that covering expenditures for county committees, for instance, we might deduct those from the $64,534.21, just as I deducted the $15,056.54, if it was not shown to whom the money was paid; if it was an item of general nature; and that is what I meant when I said that I could not deduct the $4,000 because I needed that to make up my $35,435.39 payment. I took the item "Clerical work in connection with newspaper advertising, per B. F. Emery and Harry O. Turner, Assistant Secretary, $3,597.10" in the report of the Committee to be a payroll item; and the expense of publicity department in connection with newspaper advertising, per H. A. Hopkins, director, $5,808.25 is also payroll. "Clerical work in connection with Speakers' Bureau, per B. F. Emery and H. O. Turner, $7,985.55" is also payroll. I did not include "Expense of publicity department in connection with speakers bureau, $285," in the payroll; I included that in my classification under "Speakers." It might with equal force be included as payroll, except that I did not have anything in the payroll record to indicate that it was paid under "Speakers." I will put it down as a part of payroll for the purpose of this examination. I then have the item of $1,987.50, "Expense of assistant secretaries in connection with Speakers' Bureau, per H. O. T." I included that in one of my general items, but if any portion of that represented the payroll, it might equally be included as payroll. The item "Clerical expense in connection with distribution of literature, per B. F. Emery and Harry O. Turner, Assistant Secretary, $894.28" is undoubtedly payroll. "Expense of publicity department in connection with the distribution of literature, per H. A. Hopkins, director of publicity, $415.75" is also payroll. "Clerical expense in connection with mailing letters per B. F. Emery

nd Harry O. Turner, assistant secretary, $10,791.31" is also ayroll, and I have included the next item, "Expense publicity epartment in connection with preparing the letter, $430" under ayroll, also the next two items, "Expense of publicity depart- ent in preparation of literature per H. A. Hopkins, director of ublicity, $1,663," and "Expense of assistant secretaries in ar- anging public meetings, per B. F. Emery, assistant secretary, 993.75." Adding to these "Clerical expense in general office in onnection with securing and transcribing lists of votors, per B. . Emery, assistant secretary, $894.27" and excluding from the ross item "Salaries and compensation not otherwise charged" aul R. Dailey's attorney fee, which leaves $3,643.75, the total $33,191.51, making a difference of $2,243.88 between the 35,435.39 shown by the payroll book. I think the payroll ecord shows a subdivision headed "Wayne County Clerical" mounting to $3,623.66. Assuming that your list of items is orrect, and that they are proper payroll items, stopping where e did, you have accounted for all but $2,243.88 of the payroll s shown on these sheets. Concerning money spent in counties, he first item on the report is "Newspaper and General Advertis- g Expense, County Committee per Charles A. Floyd, Secre- ry, McGregor, Davis, Emery and Chilson, $702.77." The item Expense of Distribution of Literature in counties, Charles A. loyd, $1,874.80; B. F. Emery $2,799.21; James McGregor 175; James R. Davis, $181; E. V. Chilson, $80; a total of $5,- 17.26 would seem to be a proper item. In fact, I included that my statement. I included the five items under "Postage for ounty Committees" totalling $1,554.53 in my postage account, ut this is postage for County Committee. I have listed it here n this list I am making for you now. I will also list the next em "Printing and stationery for County Committees, $1,- 55.35." I did not list it before under the general item. I will lso list the next item $4,071.89 under "Clerical Expense of ounty Committees." That is the item I said could not be in- luded as a deduction from the $64,534.21. I needed it to make p the payroll. But we have got the payroll very nearly made p without it by including other items assumed in your ques- ons that I did not include. I have the next two items under Expenses of County Committees in holding Public Meetings er Charles A. Floyd," totalling $1,274.30 in my general items. I ad myself included the item County Committees Rent, Furni- ure, Light and other office expenses per Charles A. Floyd," a otal of $1,129.43. Then upon the next page "Expenses of ounty Committees for telegraph and telephone charges" five

items aggregating $793.13 and the item of "Traveling Expenses," a total of $9,104.52. I will for your purpose include in our statement, out of that total, the last three items totalling $1,665.05, which refer to County Committees. The balance has no notation with reference to the County Committees. Any payments to any of these individuals whose name appeared in that list was deducted by me in making my totals. I was asked to examine the report to see whether it showed a certain payment to a certain individual and if that individual's name appeared in this travelling expense account, I made a deduction of that amount from the amount asked for. For instance, here is A. K. Moore, a part of this $9,104 item. A. K. Moore appears to have been paid $851.50. I was asked whether the report showed a payment to A. K. Moore of $3,569. I said the report showed payments to him amounting to $2,226.50 of which this $651.50 was a part. Putting down the total $9,104 as a part of this computation and the three items under "Expense in counties, canvassing voters and tabulating list per Charles A. Floyd, Secretary, B. F. Emery and James R. Davis," totalling $2,889.25. There are not any of these items concerning money spent in counties included in the list of the pay roll items that we figured up to see if we could not account for your $35,435.39 on the basis that you are figuring. On that basis they are all separate from that. Added up, the amount that you have just given me is $28,098.43. Assuming that the items that you have given me were proper statements of County Expenses instead of $15,086.54, which I said might be a duplication of the items read off to me, on your statement there is $28,092.43 as proper county expenses. Deducting this $28,092.43 from my total overpayment of $64,534.21 leaves $36,441.78. Deducting for the purpose of argument Mr. Oakman's $20,000 would leave $16,441.70. I used the $750 of the Guy Ingall's payment to add up my total of $64,534.21. In making my computation of the $64,534.21 I did not include the payments that were made to newspapers that did not appear in the reports. I did not touch the newspaper items. I did not determine from examining the items that were given me whether they were paid during the primary campaign or during the general election. I simply took the records as they stood. I have no means of knowing whether any of the payments that I used to make up the $64,524.21 excess payments were paid after September 6th or before. I had no opportunity to examine whether there was any duplication in the items reported to me as having been paid to individuals, only, as I said before, I took a list of names and amounts and

ade a comparison. Assuming that the figures that you have ven to me are correct, the apparent overpayment as claimed y the Government would be reduced on your theory to $15,- 00.78. You have taken certain figures set up against the County ommittee in the report and applied them in a different way an I have applied them. I can illustrate better: For instance, my general list of items, I do not include an item of $702.77, hich you claim should be included in the general items. I in- uded that in my analysis under the head of "Newspaper ad- rtising" as the item was so described in the report. If I apply as you have applied it, my newspaper account will not be st that much different in the sense you mean. It would educe the amount that the report showed was paid for news- aper advertising and throw that amount under a general head f general items and would show County Committee, newspaper dvertising so much. But my figures as to the total expendi- ures will be no different if I adopt one theory or the other. An mount which is indefinite and might be applied to these over- ayments claimed by the Government might be different on the heory that you raise here in connection with that item that I st spoke of. The report shows the expenditure of $702.77 for ewspaper advertising by the County Committee. I included at in the classification under expenditures, under newspaper dvertising. You take it out of there and put it into this list of eneral items, thereby increasing the list of general items $700, nd reducing the amount spent for newspaper advertising in the eneral classification. It makes no difference in the aggregate mount spent; it simply makes a different classification of it; nd if it is true that any portion of these amounts paid to these arious persons that were read here this morning is included in he item of $702.77 as a payment for newspaper advertising, hen of course there would be a deduction of that amount from he amount of $64,000; but the reason I included that under ewspaper advertising is that it was not a payment indicated by he report to individuals, and these were names of individuals or which I examined the report.

BY A JUROR: Having contributions to such an amount and isbursements to such an amount, it would make a difference n my classifications which classification I put them in or which Mr. Smith puts them in; not in the total, but it would make a ifference in that there would be less in the report to account or, expenditures which did not show in the report. In other ords, I showed that there were items amounting to $15,000,

where some part of this $15,000. I have shown by a change of my classification. If we take them out of some other classification, then we would increase the amount out of which this $64,000 could be paid, but it would leave a discrepancy in the other amount from which those were removed. In my final, it would be the same as I have it.

BY MR. SMITH:

If your classification is correct, the total expenditures, which according to the report are $176,000, would be—I am eliminating always Oakman—$15,000 more, on the basis of the figures you asked me to compute for you. Instead of having spent $176,000 as the report showed, you would have spent $191,000. On the basis of my classification, instead of having spent $176,000, I claim that approximately $205,000 was spent, eliminating Oakman. In other words, the classification does affect the situation to this extent: My classification, outside of Milton Oakman's $20,000, insists that so far as the record now stands, $29,000 more was spent than was reported in the report. And your classification, by finding in the report $28,000 out of the $64,000 which I claim was an overpayment, by finding additional items in the report, has cut down that excess as claimed by the Government from $205,000 to $191,000. So that if your classification is correct, on the basis of the figures that you have submitted to me in making that computation, it would have the appearance that there was expended in this campaign fifteen odd thousand dollars in excess of the amount that is stated in the report.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

The aggregate of these few items that I have classified on the classification that I testified to in chief, is one hundred seventy-six thousand and some odd dollars. The item of sixty-four thousand and odd dollars to which I testified was meant to be added to or to augment that amount, so far as it was not covered by any items in the hundred and seventy-six thousand dollars. My statement was that the items under the head of General Items might be a duplication, to that extent, of the sixty-four thousand odd dollars. If any items are withdrawn from any other parts of the account and put in the general items to make further duplications, it would not have any effect on the total amount of expenditures—taking it out of one classification and putting it in another.—So long as I keep the same total, it would not effect the total amount of expenditures in the aggregate. I

nd, however, that the expenditures shown by the report totalled
y classes may be checked against the books showing the same
assification in many instances. The payroll shows $35,435.39.
he payroll items that I picked from the report as payroll items
nd included in my classification make a total for the report of
33,997.15, instead of $35,435.39—a difference of about $1,500
etween the report as I analyzed it and the book as it was kept by
he Senatorial Committee. It is marked payroll. So that in my
assification of items as I gathered them from the report I have
lready minimized the payroll as shown by the payroll records,
o the extent of about $1,500. In my analysis of the report I
ave also included the sum of $5,062.70 under the head of
Traveling Expenses," which is not shown under that head at
ll in the books; whether or not those items are charged against
he individuals named, none of these items are included in the
mounts about which you have previously asked me. Referring
o the item of "Township clerks," in my analysis of the report I
ound the amount to be $692.79. In the books, the specific items
hich are shown as having been paid to township clerks ag-
regate $855.82—a difference of about $150. That amount con-
ists of 22 small items which are marked in the books as "Town-
hip Clerks." The book which is marked "C. F. B. Township
lerks" indicates they were paid by cashier's checks on the Com-
ercial Savings Bank with respect to the item of "Speakers" in
y statement, and in my analysis of the report I charged that
mount with $772.08. In the book I found listed under the item
f "Speakers" $809.08. The item of stationery, supplies and
iscellaneous, the amount shown in my analysis of the report
s $8,541.24, and in the books the amount shown as to that is
9,144.89—a difference of approximately $600.

E-CROSS-EXAMINATION BY MR. SMITH:

These two exhibits, 135 and 136, were represented to me as
he books. 135 is the payroll and 136 is what I would call dis-
ursement records. When I came to classify any item that ap-
eared, for instance, "May 16th, William J. Nagle, Stamps and
ost cards, check 383, $170.00," this was all the information I
ad from which I could classify it. I prepared my figures and
lassified all this multitude of items under different heads, that
as the information and all the information I had. The report
hows an expenditure of $176,000 and so far as the books are
oncerned, they show the expenditure of within $20 or so of the
ame amount; so that, so far as the report and the books, the
ay roll, the list of checks, there is no discrepancy between the

total amount except the $20. I did not examine the bank records. I do not know whether there is any discrepancy or not there. If I have not applied any expenditure in the report to a certain individual, then that amount should be added to the $15,000. If you find in the report any item that was not otherwise used in my computation and it could be properly described as a County Committee expenditure, that should be added to the $15,000 and deducted from the $64,000. I used that item of travelling expenses in my classification against those individuals, but I have not included it in making up a list of general items as County Committee expenses. If that item, for instance, was paid to James Priedeaux, or some other person whose name appeared in the list that was given by me to make up the $64,000, and that should be demonstrated, then that $64,000 of claimed excess payment should be cut down just that much.

RE-DIRECT EXAMINATION BY MR. EICHHORN:

I did not include the item of traveling expenses in general items, for the reason that it is set out in the report under traveling expenses as a payment to those various individuals, and I could not find in the list any name of William Priedeaux, or any of those other names that you read me, except insofar as I was able to apply them as, for instance, in the case of Phillips and Moore. I did apply a certain amount of them and made the deductions, so that that left the amount of $64,000; but the balance of it shows specifically in the report who got it, and it does not contain the names of any of those other individuals that you read, so that I excluded it from the list of general items. I have not in mind now what other matter besides traveling expenses counsel asked me to include in general items. I did not include the $4,071.69 in general items, for the reason that that showed in the report as clerical expense, and I used it to make up the $33,000, which I applied against the payroll. The other items which counsel asked me to substitute for that $4,071 had already been definitely applied elsewhere. There were no items that he asked me to substitute for the $4,071 that could not be and were not definitely applied by me, from data shown in the report, except possibly the item of newspaper advertising of $702.77, and the item of printing, $1,455.35. Now, if that item of printing represented payment to Priedeaux, or anybody else, in that event, they could be added to the $15,000; and if the item "Newspaper Advertising, County Committee" represented payments to individuals, Priedeaux or anybody else, in that event it could be added to the $15,000. But outside of those two items there

are no items which I cannot specifically show by the report who received the money and for what it was paid. The person to whom the payments were made, aside from the two items to which I have referred, included none of the persons whose names you read to me other than Mr. Moore and those I specified when the names were read.

RE-CROSS-EXAMINATION BY MR. SMITH:

I mean so far as the report shows.

FRANK LEO, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Cross Village now, but in the summer time I work at Harbor Springs, Emmet County. I was living at Harbor Springs in 1918. I know the Defendant Will S. Darling. He had a talk with me before primary day in that year, and he asked me to go with him up to Cross Village on the primary election, to interpret for the Indians. He told me to speak for Wood and Green and Newberry. I didn't go with him, I went myself. I started early in the morning and went on my bicycle, and then Mr. Darling came. I saw him at Cross Village during the day and was with him at times. I came back some time in the afternoon, somewhere around two o'clock. Mr. Darling paid me $5 for what I did after I came back to Harbor Springs. I think I got it on the following day. I went over to his store and asked for my pay and he gave it to me.

HENRY SULLIVAN, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live at Cross Village, which was my home in 1918. I was at Cross Village on primary day that year. I saw the defendant Will S. Darling on primary day 1918. I was running a garage there at the time. Mr. Darling came to my garage and asked me to rent my car to him to take voters to the polls and take them back to their homes. I did that. When we first started, Mr. Darling asked me in whose favor I was, and I told him that I hadn't taken the thing in consideration; that I was for nobody; and he says "Do you think that Mr. Newberry will carry Cross Village?" I says "I don't know." He said he had money enough to pay the expenses, and he was talking to me at the time about Mr. Newberry. That day he paid me all told as near as I can

remember, as near as my books show, $15. He did not pay me the $15 all at once. The first money was given me at Cross Village. I was sitting in the car seat and he told me when he made the arrangements in the morning what it would be, and as I had hold of the wheel in my car he placed the money in my pocket. As near as I can remember he gave me $5 for taking him to Harbor Spring from Cross Village that same afternoon. Nobody went with Mr. Darling and myself in the automobile except the voters that was hauled to the polls and back. Charles Warren went with us for voters. I saw Charles Warren with Mr. Darling during the day. I saw Darling have Newberry cards, and I also had some. I saw him handing them to the voters.

CROSS-EXAMINATION BY MR. LITTLETON:

I saw Mr. Darling the evening before the primaries, and I saw him on election morning. I had seen him before that. I saw him most every trip that I was in from the light house. When he came to see me he placed some cards in the front seat of my car. He placed the cards of the men who were running and asked me if I wouldn't distribute them. I said "No." I never sized up the pile of cards that he threw in the seat. The cards that he handed me to distribute laid in the seat of my car where he laid them, on the front seat, and he had the cards. He accompanied me on the trips with the exception of two trips, and he handed the cards. I did not see what cards they were. He paid me the first money for any services that noon. He had not paid me money prior to that time for any purpose. I don't know the name on the back of the check now shown me. There are two names on it. My name is one of them; I do not know what the other name is. I guess nobody else does. The first signature looks like mine. The check is payable to me and signed by Mr. Darling, dated August 27th. I cannot recall of ever receiving the $9 check. My books at home show that I received $15. The signature on the back of the check looks like mine. I couldn't say as to whether the signature to the check is Mr. Darling's. I don't know. I received some cash and the check. If that was the check that was issued that day, I received cash besides the check. It is not my recollection that Mr. Darling asked me to work for Mr. Wood and Mr. Green. In the morning when he asked me he wanted me to work for Mr. Newberry. He came and asked me to. He gave me the check within twelve or fourteen hours after that. He gave me the money before he gave me the check. It runs in my mind that he gave me $10. I re-

ceived $15 all told. My automobile was hired about 8:30 a. m. and was in service until about 1:30 in the afternoon, before I took him to Harbor Springs.

(The check referred to by the witness was here marked as a part of the witness' cross-examination and read to the jury as follows: "Harbor Springs, Michigan, Aug. 27, 1918. 14677. Emmett County State Bank. Pay to the order of H. Sullivan Nine dollars" in figures and nine dollars in letters. Emmet County State Bank in print on the end. W. S. Darling. Endorsed H. Sullivan.

RE-DIRECT EXAMINATION BY MR. DAILEY:

I was in Cross Village when I received the money. Whatever check I received Mr. Darling gave me in his store. He says, "I will pay you tonight for the balance," and I had another trip, that is why I was in a hurry that afternoon. I got to Harbor Springs that night and got the check that night. Mr. Darling was to pay me $2 an hour for my car. That is the time it figured up. The time I put in at the voting place and hauling voters was close enough so that I called it $10 for my services.

SETH W. TERPENING, a witness sworn on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Friendship Township, about seven miles out of Harbor Springs. On the 23rd of June, 1918, I went with the defendant W. S. Darling on a Liberty Loan Drive from Five Mile Creek through several townships. When we were in Goodhart, before the meeting was called, Mr. Darling took me aside and asked me what I thought about the candidates for United States Senator, and I told him I had not thought very much about it, but my choice was Mr. Osborn. Well Mr. Darling said Mr. Osborn was a good man, and he says we have another good man candidate for that office, Mr. Newberry, I told Mr. Darling that I didn't know and had not heard much about Mr. Newberry, but I had met Mr. Osborn several times. He says, "Well in times gone by you have done the same as I, you have worked for different candidates and donated your time, so have I. Now there is a chance that if we do any work for Mr. Newberry we will get our pay for it; I calculate to take it; I think you will be a chump if you don't do the same thing." Later, one evening, I couldn't say whether it was prior to the primary or not,as I was passing Mr. Darling's store on the way to the picture show with my family, some one rapped on the store window, and I turned my head

and Mr. Darling motioned for me to come in. I did so, and Mr. Darling introduced me to a gentleman, but whose name I could n't state. In introducing me to him, if I remember it he said that I was an influential man in my township and had the vote of my township in my hand; that I was a Newberry man. I says I thought he had overdrawn it a little; also that I was not a Newberry man. Then this gentleman said "You are not a Newberry man? I said no, I am an Osborn man. Well, but he says, Mr. Osborn is eliminated from the game, and he says now it is cornered down to Mr. Newberry and Mr. Ford; and he says you wouldn't vote for Ford. Well I says I think that Ford is a great man, he has been a great man for Labor and I think that Mr. Ford is one of the greatest men that we have had in my time. He says well that is all right, I agree that way, he is a good man for labor and I think we ought to leave him right where he is, he is not a statesman; then he stated to me he wanted to know if I had a car and I told him I had. He says now you are just the man, we want to get someone like you with a car to do some work for us in the interest of Mr. Newberry, and he said if anybody works for us we calculate to pay them for their work. He says understand that; and he said would that make any difference to you, Mr. Terpening, if you were paid for your time in doing any work? I told him if I wanted a man for any office I would work for him without pay, and if I didn't think I wanted that man for the office the pay would not influence me, and I told him further that I was a great fellow for picture shows and my family had gone in, and I wanted to hurry in for fear I would lose the first part of the picture, and I would bid him goodbye.

SAMUEL BARKLEY, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live eleven miles north of Harbor Springs in Friendship Township. In June, 1918, I saw the defendant Will S. Darling and had a talk with him, and he asked me if I would circulate a Newberry petition in our township. I did so. I think I secured somewhere around two hundred names on it. Later he paid me something for that work but there was nothing said about pay then. During this time, July 4, we had a picnic at Goodheart, a little village just north of us. He asked if I would circulate one there, which I did. I just went around the people as I met them there. I should think an hour would cover all the time I spent. That was also a Newberry petition, which Mr. Darling gave to

me. When I had these two petitions signed I handed them to Mr. Darling, and on July 22nd he gave me $4.00.

CROSS-EXAMINATION BY MR. LITTLETON:

He gave me his check for the $4. The paper now shown me is that check. I wasn't positive whether it was a check but now when I see the check I know; it brings it clear to my mind that it was.

MR. LITTLETON: The same bank, July 22nd, 1918. Pay to the order of Samuel W. Barkley, $4. W. S. Darling. Endorsed Sam Barkley, Harbor Springs something. On the corner in lead pencil "N. petition."

HARRISON MERRILL, recalled, testified as follows:

EXAMINATION BY MR. DAILEY:

Some time during the primary campaign of 1918 Thomas Bigger came to Kalamazoo, and talked to me about Helme petitions. I believe he asked me where he could get someone to pass them. I looked around the Burdick where we were at the time and saw a party there by the name of Ben O. Bush. I called Mr. Bush over and introduced him to Mr. Bigger. I did not hear the conversation that occurred between them. Several days later Mr. Bigger came to the office where I was working; asked where he could find Mr. Bush, and I told him undoubtedly at the Burdick or Burdick lobby, and he said he had been there, and he asked where he lived. I looked it up in the directory. We went in Mr. Bigger's machine to Mr. Bush's home and Mr. Bigger went in and Mr. Bush came out on the porch and they had a conversation.

FRANK N. WAKEMAN, a witness heretofore sworn on behalf of the Government, being recalled, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I received the undated letter, marked Government's Exhibit No. 142, through the United States mail. It came through the United States mail.

The letter referred to by the witness was offered and received in evidence and read to the jury as follows:

GOVERNMENT'S EXHIBIT NO. 142.

(Heading of the Newberry Senatorial Committee)

"TO THE PUBLISHER ADDRESSED:

There is going forward to you by parcel post today an electro for a seven-inch double column paid announce-

ment for the Newberry Senatorial Committee to be run in your weekly issue during the week ending June 1st, pursuant to our contract with you.

This announcement is for one insertion only. Other electros will be sent you from week to week.

A news story, proof of which is enclosed, concerning the work of the Naval Reserves is also going to you in plate form. I hope you will be able to find room for this plate in an early issue, it being one of the non-political stories for which we requested free insertion in a former letter.

We hope this initial announcement, and others to follow in the weeks to come, may be effective and that we may have your co-operation in making the publicity pull.

Cordially yours,
H. A. Hopkins."

ORIEL L. HYDE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I live in Detroit and am engaged in the direct advertising business, which means multigraph letter service direct to the consumer, etc. In 1918 I was connected with the firm of Curtis and Hyde, which is named in the report of the Truman Newberry Senatorial Committee as having received $6,700.56. We had an arrangement with the Newberry Senatorial Committee in 1918 for some letter work. The work under that arrangement began approximately about the middle of June and ended the latter part of August. We received payment from B. F. Emery of the Committee for the work we did. During part of the campaign some payments were made by check; toward the end of the campaign we received cash. In all $10,981.47 was paid to us for the work we did. The last payment was made August 27th.

CROSS-EXAMINATION BY MR. MURFIN:

The last payment was $2,240.27. Some of the pay that we received from the Newberry campaign committee went into postal cards or postage stamps; there was instances, as near as I can remember, when they could not get a check through for some reason or other, and we furnished the money for the postage, so it would not hold our work up, and then that money would be refunded to us in cash. We got out postal cards and Mr. Emery

paid us for them. The Government agent showed me the Blair report. We received a payment from the Newberry Senatorial Committee of $800 on or about the 29th day of July. When the Government agent showed me the Blair report, he did not show me the books of the Committee that have been in the custody of the Government since the Grand Jury. He did not show me in Exhibit 136 the item "B. F. Emery postal cards, $800," the date being July 10th, and he did not show me in the same exhibit the item "Check dated September 6th to the order of B. F. Emery $16,629," under the head "Adjustment of Cash Account."

RE-DIRECT EXAMINATION BY MR. EICHHORN:

Regarding the item of $800 charged against B. F. Emery for post cards, I cannot say whether we furnished those postal cards or whether they furnished them direct. Where we furnished the postal cards and then charged a sum sufficient to cover the postage that is included in this amount of $10,981.47, if the postal cards were furnished by some one else to us to be printed, the cost of printing them would be included in the $10,981.47, but not the cost of the postal cards.

CLARE R. HIGBEE, being sworn as a witness on behalf of the Government, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I was the clerk of the Grand Jury which returned this indictment. I know the defendant, George S. Ladd. He was called to the Grand Jury room and appeared there while the Grand Jury was in session. He was asked if he was willing to voluntarily testify, waiving his rights, telling the truth, and all the truth, and nothing but the truth, whether he was willing to testify without any promise of any kind, and he was told that his testimony would be used for any and all purposes. He said that he was willing to testify under those conditions. He was afterwards sworn and testified before the Grand Jury. I took notes of his testimony, which are now before me.

Q. Turning to your notes, you may testify to what he said.

MR. LITTLETON: I object to the question and to the testimony called for by the question, upon the ground that it calls for incompetent evidence; it does not appear that within the meaning of the law the evidence was voluntarily given; also upon the ground that it does not appear the best evidence of the testimony given by Mr. Ladd; also, since the testimony cannot be used against any defendant other than Mr. Blair, it cannot tend to establish the charge in the indictment to wit, a conspiracy.

THE COURT: Gentlemen of the Jury: The testimony of Mr. Ladd before the Grand Jury cannot be used, and must not be considered by you against any defendant except Mr. Ladd; as to him the testimony of this witness is admissible. The objection will be overruled.

MR. LITTLETON: An exception.

A. George S. Ladd, of Sturbridge, Massachusetts, said he was connected with the Massachusetts State Grange and had been engaged in politics for years. Said he received a letter some time in 1918 from Horatio Earl, an old friend of his, asking him to come to Detroit. He said I went to Detroit and saw Earl and he said it would be better for Michigan to have Newberry than Ford for Senator, and wanted me to go out through the state making speeches for Newberry. Earl introduced me to Paul King at the Detroit headquarters and King asked me to make speeches through the state for Newberry. It was E. V. Chilson, I believe, who gave me $100 in cash at that time for expenses. Chilson mapped out the territory that I was to cover. They did not advertise me as speaking for Newberry, but as speaking in favor of good roads and other subjects at farmers' meetings. I received $250 more by check when I was through. The matter of compensation I left with them. I was engaged in this work about two and a half weeks. The speeches were mostly made at outdoor picnics and was during July or the fore part of August. I never knew Newberry but got my information from Earl and King. They arranged for me to speak ten or twelve times. I went back to Detroit every two or three days and reported to Earl and King. The check for $250 I think was given me by Chilson. They told me my work would be more effective if I was not introduced as speaking for Newberry. A man working for the non-partisan league traveled with me part of the time. I believe I spoke at Escanaba at the war board meeting.

The defendant William Mickel also appeared before the Grand Jury and was asked this same question that I have testified to as having been asked the defendant George S. Ladd. He answered in the affirmative. After that he was sworn.

Q. Please tell the jury what Mr. Mickel said to the Grand Jury?

MR. LITTLETON: The same objection is made to the introduction of this testimony as has heretofore been made upon the grounds heretofore stated.

THE COURT: There will be the same ruling.

MR. LITTLETON: An exception.

A. Mr. Mickel stated that he was from Oshkosh, Wisconsin,

at this time, but had formerly been a resident of Grand Rapids and had been a state dairy and food inspector for four or five years under the direction of James Helme. He said that he was called—or asked to call at Floyd's office at the Newberry headquarters in Grand Rapids, some time I think in June, 1918, and he did go there and met Paul King, and Mr. King introduced him to Mr. Floyd. That they asked him at that time what he thought of Ford as a Democrat; that the reason they asked him the question was because they had reason to think that he was dissatisfied, and he told them that he was dissatisfied. That was about all that was said at that time on the subject. But a few days later, perhaps a week later, he was called there again, and they asked him at that time if he had any man in mind for candidate on the ticket that he thought the Democratic machine would oppose, and after thinking it over he said, yes, he thought James Helme would be the man, and they asked him to write to Helme at Adrian and ask him to become a candidate, and he did write to him, and he said Helme replied that he was too old to become a candidate for the mere notoriety of it, something to that effect, and that there was nothing in it; and he notified Floyd and King regarding this, and they asked him to write again, and he did so, but got a reply to the same effect, that he was still of the same opinion and there was nothing in it; and then they said they would see what they could do about it. They told him then if he had no influence over Mr. Helme himself that they would get somebody from Lansing to see him who would have some influence over him, and he returned to Wisconsin, and a little later he received a letter, I think upon his returning to Detroit, from Mr. Helme, stating that he had changed his mind and decided that he would run, but that it was getting pretty late to get the petitions in on time, and he talked with Mr. King and Floyd about it, and they said they could have the necessary names on the petitions they thought within twenty-four hours, but they didn't manage to do that; and then he suggested to them that they hire men to circulate petitions, and they told him that they had men that they could send to the Great Lakes and to Camp Custer and that they would pay them fifty dollars each and ten cents per name. They told him that they had James Davis who was going to Camp Custer, and he did go and interested, I think, it was Fred Bernard, the Sargeant at Arms of the Senate, to look after the petitions there, and Emery told him he had Bert Cady to look after the thumb district with the exception of Bay City, and Dick Fletcher was going to look after Bay City. That George Welsh was going to look after the Grand Rapids district;

and Mr. Mickel wrote to Mr. Helme and suggested names of men that he thought were the proper men to go on the committee, campaign committee. Mr. Helme replied he didn't think a campaign committee was necessary; that all that was necessary was an executive chairman; and he ordered stationery, Helme stationery, to be paid by the Newberry Committee, and he was also paid $20 a month by the Newberry Committee to take care of the expenses of an office in Grand Rapids, and they also paid him $50 a week to be paid to Mr. Helme, which he said he paid, and King and Floyd both promised to pay him for his work, but he said they never did so. He said he received in the neighborhood of $400 to $500 from the Newberry Committee and he also stated the night before I think it was, that the expense account was prepared at the Newberry Committee Headquarters here in Grand Rapids; he happened up there to the Newberry offices, and Floyd and Mr. Hopkins and Mr. Haskins and George Welsh, and I think Al Moore, he gave the name of Al Moore, were present that night; that he was in another room during the debate regarding the account, but after they had discussed it some time they came out and asked him what he thought about putting in an expense account, and he stated that he told them that he thought they ought to give a correct statement, tell the truth, or else ignore it entirely. This was after the charge or statement had been made by Lieut. Gov. Dickinson; and they told him they decided to put in an expense account of about $175,000, and let it go at that; that they had got to put in some account or Newberry would be defeated, and also that if they put in a correct statement of the actual expense, that it would be just the same as admitting the charge that the Lieut. Governor Dickinson had made, and would also defeat Newberry; and they said that they did not know what money had been expended at the Detroit end, and Floyd was going there that night to find out what they were going to do down there. He also said that Floyd told him that Mr. Samuel Odell of Lansing, was the man who went to Helme and got him, Helme, to see the light, as he expressed it.

CROSS-EXAMINATION BY MR. NICHOLS:

I remember George S. Ladd very well apart from my notes. Referring to that part of his testimony in which he spoke of the fact that Senator Earle, known as Good Roads Earle, sent for him to come to Michigan, he also stated this in substance: "I came to Senator Earle's office in Detroit, and he told me, in substance, that there was a great many people in Michigan who

did not like the President's suggestion, and did not like Mr. Ford's attitude in the war, and Mr. Earle inquired as to whether or not he had the time, or would be willing to go out and make speeches." He was a very fair and frank witness. He said that he had been acquainted with the Massachusetts State Grange. I do not recall whether he gave the number of years. I do not recall that he made any complaint while he was before the grand jury, in relation to the representatives of the Government trying to have him sign a statement that was not right, as he claimed. I have no recollection about that. I do not remember whether he was asked as to his purpose and intent in what he did.

MR. LITTLETON: Before cross-examination is made, I desire to ask your Honor, in view of the length of the statement and the number of persons whose names have been mentioned, not because it hasn't been already done, because it has with reference to testimony of this kind, but I ask your Honor, particularly in this instance, to instruct the jury that the statements made by Mr. Mickel to the Grand Jury will not be binding upon or considered against Mr. Floyd, Mr. Hopkins, Mr. Haskins, Mr. Welsh and Mr. Helme, or any of the men, Mr. Odell, or any of the other men whose names are mentioned in the narration of this testimony.

THE COURT: In this instance, gentlemen of the jury, I give you the same instructions that I have heretofore, relative to other testimony of Grand Jurors, as to what was said by any one of the defendants in the Grand Jury room and before the Grand Jury. The statements made by the defendants as a witness before the Grand Jury cannot be used and cannot be considered by you as against any defendant save the one who made the statement.

CROSS-EXAMINATION BY MR. LITTLETON:

I did not make notes of Mr. Mickel's testimony before the Grand Jury, that I recall. I have consulted the various memoranda during the time of the Grand Jury proceedings to see if I made any notes about Mr. Mickel, but I cannot say at this moment whether I have them or not. The most of this is from memory. Within the last few days I consulted the notes of Mr. Souter, to refresh my recollection. I have looked to see whether I have any notes of Mr. Mickel's testimony. I did have some, but it was very brief though. I was busy at other things at the time and did not get the full notes on that. I remember a part of the statement which Mr. Mickel gave to the Grand Jury very well. In giving the statement that I have given to the Jury and the

court, I relied on Mr. Souter's notes as regarding the names of men that were present the night at the headquarters when they were making this account for instance, and the like of that for instance. I relied upon the notes to refresh my memory some. I read them, but I could not give it accurate before I examined the notes. And as far as the narrative itself is concerned which I have given to the court and jury, I should say at least half of it was taken from memory. I was very much interested in that particular testimony; in fact, we all were.

The Government here rested.

The jury having been excused, Mr. Dailey moved the Court that the indictment be dismissed as to the following defendants:

Archie Anderson
DeWitt Brown
Edward J. Bowman
Anton Bushak
W. V. Caprun
George C. Carrigan
Foster Cameron
Fred Conenwett
Mel R. Deo
JamesDeevey
Frank Ford
Frank Guiman
William T. Hosner
Dan Kennedy
E. Bruce Laing
Frank McKay
Carl D. Mosier
Fred M. Northrup
Timothy Ryan
Judd Ryno
Albert Taylor
John Wagley
Claude Vandervven,

which motion being granted, an entry was made in the minutes of the Court of a verdict of not guilty as to each of the above-named defendants.

THE COURT: A very close attention to the evidence as it has been introduced on the part of the Government, and a careful examination and study and review of the testimony as reported and as contained in the record, convinced me that there are certain other defendants than those who have been dismissed on the motion of the Government who ought to be dis-

missed from this case because of the insufficiency of the evidence to warrant the submission of the question of their guilt or innocence to the Jury. I have given the matter very close and careful study, and have examined, I think, every word of the testimony as to these defendants whom I will mention and whom I think ought to be dismissed; and, Mr. Clerk, an order may be entered that upon the Court's own motion the following named defendants are dismissed and a verdict of not guilty directed:

Christian Brock
Alfred F. Crawford
Frederick J. Derrick
John W. Dunn
Benjamin Geto
Alexander C. Green
John Jones
Daniel C. Laughlin
William E. Lewis
Samuel Odell
John C. Rittenhouse
James Swain
Lewis L. Thompson
Arthur H. Wentz, and
Paul Woodworth

MR. LITTLETON: I move, on behalf of each of the remaining defendants, that your Honor withdraw from the consideration of the Jury and dismiss the 3rd, 5th and 6th counts of the indictment, on the ground that there is no evidence to warrant the submission of them to the Jury, and no evidence upon which the Jury should be allowed to draw an inference of guilt against any of the persons accused. There is no evidence upon which to submit to the Jury the question: Did the persons accused conspire to violate that portion of the Act of Congress which forbids a candidate to give, contribute, use or expend money in the aggregate in excess of the amount permitted by the laws of Michigan and the laws of Congress to procure the election of Truman H. Newberry? Nor is there any evidence that there was any conspiracy or agreement that any act or thing should be done with respect to said election. There is no evidence that on or after October 16th, 1918, there was any conspiracy, agreement or concerted action by or between the accused persons, or any of them, with respect to the paying of money or things of value to voters either to cast their votes for Truman H. Newberry, or to withhold their votes from Henry Ford. There is no evidence upon

which the Jury should be allowed to draw any inference that the accused persons, or any of them, entered into an agreement with a corrupt purpose to devise a scheme to defraud and to use the mails to execute such a scheme, either the people of the State of Michigan, the candidates defeated, or to induce the contribution of money with the purpose to appropriate such money to their own use and benefit. That motion, with its sub-divisions, is meant to embrace the 3rd, 5th and 6th counts in the indictment.

THE COURT: So far as the 5th count of this indictment is concerned, I think it should be dismissed. In my opinion, there is no evidence in the case which would warrant a conviction of any of the respondents upon that count.

After hearing Mr.Dailey in opposition, the Court dismissed the 5th count, and in so doing, delivered the following oral opinion:

"I have given that matter very serious and careful consideration. What counsel for the Government says would have force, I think, if the conspiracy charged in the 5th count were a conspiracy on the part of a limited, and a very limited number of these defendants in some particular locality to violate the Federal Statute of October 16, 1918. But that is not the charge contained in this indictment, in the 5th count, and the most that could be said would be that in widely separated localities there was conduct on the part of some of these defendants that would warrant a submission of the question to the Jury—that is, as to a conspiracy of the defendants in that particular locality. What would be true of one locality might be true of three or four others in the State, but they are separated. The conduct of the defendants in one locality does not seem to be connected with the conduct of the defendants in another locality; and if we were to proceed upon that theory, we would have to proceed upon the theory that this indictment in its 5th count charged several conspiracies instead of one, and I do not think that the evidence warrants the submission of that count to the Jury, and I think it will be dismissed."

After hearing Mr. Littleton in support of his motion to withdraw from the consideration of the jury and dismiss the 3rd and 6th counts of the same, the Court denied the same, and in so doing delivered the following oral opinion:

"I scarcely think that I care to hear from the Government attorneys upon this question. As to the validity of the counts of the indictment, of course my views have been expressed at length. Without deciding the matter at this time, I will give

counsel the benefit of my somewhat imperfect and crude thought as to whether the second and third count can stand; that is to say, whether there can be a charge which is divided and separated as between the nomination and the election. My first impression and thought when I studied this indictment was to the effect that there could and should be a separation as between the two. Later on I came to doubt, and I would not have much hesitation, I think, in the matter, that there could be no separation under the Federal statute. The Federal statute is conjunctive; it is not disjunctive, but the section upon which this prosecution as to the first four counts of the indictment, the section of the statute must be considered and interpreted in connection with the other sub-divisions of the same section, that is the sub-division here under consideration. The other sub-divisions clearly do separate expenditures for the nomination and the election. In other words, one method adopted by Congress preventing excessive expenditures of money in election campaigns was to require publicity. Originally, that was the primary purpose of the statute, and in connection with publicity the candidate is required to file reports which become public property, and he must file a report of expenditures by him in connection with the nomination separately from his report in connection with the election, and the other sub-divisions upon which this prosecution is in part based refer to the reports which a candidate is required to file in direct terms. Therefore I say I have had some considerable hesitation upon the question as to whether the second and third counts could be permitted to stand in this indictment. I am not disposed to decide that question at the present time at any rate and I am simply saying what I do for the purpose of giving counsel the benefit of the thought.

Assuming that count three is properly in the indictment, I am convinced that there is ample evidence to go to the jury as to the guilt or innocence of the respondents, or some of the respondents under that count. The fundamental idea of a conspiracy is not a substantive crime which is the object or purpose of the conspiracy. The object or purpose of the conspiracy may never be accomplished. That has nothing to do with the question of the guilt or innocence of the defendants. In other words, if a conspiracy is entered into by two or more persons at common law to do an unlawful act and under the Federal statute to commit an offense against the United States, in other words, to violate a law of the United States, and some act is done by one or more of the conspirators to accomplish the purpose of that act, the crime is complete even though the conspiracy may then

be abandoned, and its object never accomplished in any way, so that the evidence which tends to indicate or does indicate the accomplishment of the purpose of this conspiracy, that is to say, the commission of the substantive crime for which the conspiracy was formed is the only evidence to show whether or not there was formed a conspiracy—whether a conspiracy was entered into. That seems to me to be the fundamental definition, and taking the evidence as it stands and without going into detail at all at this time, there is ample evidence to warrant the submission of the question to the jury, whether two or more of these respondents did make a plan, form a plan or agreement or combination that the purpose of the conspiracy should be accomplished, or to do the thing which the law denounces and which is charged in this indictment. I say that, assuming that count three in the indictment may stand by itself.

So far as count six is concerned, I do not think I need to add anything to what I have already said in the opinion in overruling the demurrer to the indictment.

I am quite familiar with the case which has been cited in New York State and which has been cited a great number of times in other courts. The doctrine of that case by the facts of the case was narrowed very much. The Federal Courts have not defined a conspiracy as is defined in the New York case. The Court of Appeals of this Circuit has defined a conspiracy in very much broader language, and in language which could not be reconciled, I think, with the decision in the New York case. The difference comes, I think, by reason of the difference in the two statutes, the state statute and the federal statute of conspiracy. The federal statute confines the crime of conspiracy to an agreement either to commit an offence against the United States, or defraud the United States, and to commit an offense against the United States means simply and nothing more than to violate a statute of the United States; while the common law definition of conspiracy is much broader than that and requires a different definition, and a different one certainly than has been given by the Circuit Court of Appeals of this Circuit, by the ruling of which I am certainly bound.

Not only that, but the Circuit Court of Appeals of this Circuit has construed what may be termed a conspiracy to use the United States mails, and if I may be permitted to say it, has gone at great length as to what is included within the prohibition of Section 215. I have in mind one case where the question of conspiracy to use the mails of the United States seemed quite remote, and that is the Shea case; it was in the Court of Appeals twice

and there the evidence that the purpose of the person charged with conspiracy to use the mails did conspire to use the United States mails was exceedingly remote, and yet the court upheld the conviction. In the first instance the case was reversed, but upon other grounds than that, and the second time it went to the Court of Appeals on the second conviction the case was affirmed. So that if incidental to any other plan or scheme, legitimate or not, there was and could be said to have been a plan to use the United States mails in furtherance of a scheme and a conspiracy to devise a scheme to defraud and to use the United States mails in connection therewith, even though it may have been incidental, it falls within the purview and the prohibition of Section 215.

I do not care at this time to say anything further as to whether a scheme to defraud can be an act to defraud the whole people of the State of Michigan, or the candidates for senate. That matter——it will be necessary to decide it at some time and before the case is submitted to the Jury, and therefore the motion will be denied, and an exception will be noted to the ruling of the Court."

MR. MURFIN then moved on behalf of all respondents remaining in the case, that the Court direct a verdict of not guilty on all the remaining counts for the reason that there was no evidence in the case upon which the Jury could find beyond a reasonable doubt that the respondents, or any of them, committed any of the offenses with which they were charged in the remaining counts in this indictment.

THE COURT: The motion to direct a verdict as to all of the respondents collectively will be denied, and an exception noted. It may be considered that a separate motion for the dismissal of his case and the direction of a verdict of not guilty, upon the ground that there is no testimony warranting the submission of his case to the jury, is presented relative to each individual defendant.

After hearing arguments in support of the motion, the Court denied the same and in so doing, delivered the following oral opinion:

"Because of the fact that these motions are decided at this time it should not be inferred that the matters which have been presented in behalf of the defendants have not been carefully considered, because the contrary is true. These matters have received careful consideration by the Court in anticipation of the making of such motion at the conclusion of the trial; ; and during the entire progress of the trial I have endeavored, so far

as was possible and so far as I had the ability and the capacity, to examine and give careful attention to the evidence as it has been introduced. Also I have had an opportunity to examine the arguments that were made prior to the arguments this morning and give them careful thought and as much attention as would be possible. So that the decision at the present time is not a hurried one, nor made without due consideration. I feel that it would be useless for me to devote more time and delay the trial by devoting more time to the consideration of these motions.

I will not say that the evidence relating to every respondent in this case has been studied in an unusual way. There are certain respondents concerning whom it seems to me there can be no question. I will say, however, that I think every scrap of testimony, every phase of the testimony with reference to the respondents concerning whom there has been any doubt in my own mind or any hesitation on my part in deciding the motion, has been carefully studied and examined.

The question here to be determined is not as to whether or not there is sufficient evidence to convict, or whether the guilt or innocence of the respondent has been established. The sole question to be determined is whether there is sufficient evidence as to any or all of the defendants to warrant the submission of the case to the Jury. The Court cannot substitute its judgment for the judgment of the Jurors, and if there is substantial evidence bearing upon the essential elements of the offense or offenses charged in this Indictment, it is the duty of the Court to submit the case to the Jury. It is true that by virtue of the number of the defendants in this case, the Jury will be burdened, and it will be a very serious and grave task for the Jury to undertake to differentiate as to the testimony relating to the different defendants, and to separate the evidence which relates to one defendant from that relating to another or to others. At the same time that does not change the rule of law. Difficulties of that nature cannot change or alter the duty imposed upon the Court or upon the Jury if the case goes to the Jury. Notwithstanding the evident desire of counsel to be relieved of embarrassment from the queries and questions of their clients, I really must decline at this time to enter upon a school of instruction, or to make what might be termed and usually are termed invidious comparisons. In the case of each defendant the matter must be decided upon the facts relating to that defendant, and not with reference to the facts relating or the evidence relating to some other defendant who may have been dismissed from the case. It may be that

in the inclination—and there has been the inclination on the part of the Court to lean toward a release of the defendants if the evidence warranted it, and the Court may have gone too far in some cases; I doubt it, but that may be true. Nevertheless the facts and circumstances surrounding each of the defendants who now remain in the case, are different from the facts and circumstances surrounding any of the defendants who have been dismissed from this case. There are certain matters that are similar, but taking the entire evidence as relating to any defendant, and it will be found that there are marked differences.

I have no fault to find, in the main, with the rules of law that have been enunciated and stated by counsel.

In some particulars I might differ from the views of counsel. Perhaps it is only fair to say that I do differ in some respects, but in the main of course the rules of law applicable to a case of this kind are well understood, and there can be little or no difference between counsel and the court upon those matters, and it is unnecessary for me at this time to state those.

As to the rules of evidence, there are certain particulars in which I think I must differ from counsel; perhaps, more strictly, I may say the rules of the application of the evidence to the rules of law, or the rules of law to the evidence in the case.

I will only mention two or three subjects, and among others this: Much stress has been laid upon the fact that it does not appear affirmatively that the defendants were acquainted with each other, or that one defendant had knowledge of the doings and the actions of another defendant. That is a matter that may be taken into consideration by the Jury when it comes to pass upon the testimony, and yet it is not a controlling factor at all; it is a minor matter. If there is any one proposition well settled by the highest authority, it is that conspirators in order to be members of a conspiracy may not know each other at all. We have illustrations in cases decided by the Supreme Court of the United States, where the conspirators were scattered from the City of Washington to the city of San Francisco and had no acquaintance with each other—that is, one conspirator with all of the others, and yet the Supreme Court did not hesitate at all to say that those men, who were unacquainted with each other and were entire strangers to each other, might have a common purpose and might be members of a conspiracy. So that while that is a matter to be taken into consideration by the Jury, at the same time it is a minor matter, a matter of not very great weight.

Another matter which has run through all the arguments, I think, of counsel, and that is the claimed requirement of direct

proof. That is another phase of conspiracy which has been well settled. In fact, the very nature of a conspiracy precludes, usually, the possibility of producing direct proof, and the prosecution in all cases of conspiracy, must rely to a very large extent upon circumstantial evidence. That comes about by reason of the character and nature of the crime which is charged. Conspiracies are not formed in public halls or at public meetings, and they are not carried out in public; they are not proclaimed from the house tops. And that leads me to comment upon a statement of counsel made this morning when it was urged that certain of these defendants should be released, because whatever they did was of a public nature and was done in the open. That is a matter to be taken into consideration. On the other hand, this is true: A conspiracy may be involved or connected with or incidental to a legitimate undertaking and enterprise and the enterprise in which it is involved, or with which it is connected, or of which it is a part, may in itself be entirely legitimate and lawful, and the publicity relative to the main enterprise, if I may so call it, does not in itself show that there is publicity as to that which is unlawful, and the unlawful enterprise which is involved in that. No one would contend for a moment that an organization to elect Senator Newberry was unlawful. No one would contend for a moment that it would constitute an unlawful conspiracy because that organization gave publicity to the candidacy of Senator Newberry in every legitimate and lawful way. On the other hand, there may be involved—and it is the claim of the Government in this case that there is involved—in that organization, as incidental thereto and as a part of the program and the plan, a plan and a combination to do an unlawful thing, that is to violate this Statute. It is none the less a conspiracy, none the less unlawful, and none the less punishable, if a conviction follows because it is incidental to a larger and a lawful enterprise.

Much has been said too by some of the counsel upon the question of the evidence relating to each individual defendant. It is true that a defendant may be convicted even though he had nothing to do with the inception or conception of the unlawful combination or agreement. It is true that if later on he takes a part in the execution of that unlawful agreement, and he does so knowingly, he becomes as much a conspirator as if he had originated the conspiracy or the plan, and it makes no difference whether he gets in at the first hour to work in the vineyard or the eleventh hour, provided he gets in before the conspiracy has been consummated or abandoned.

Another thing: You cannot in a case of this kind, and it is not the rule in a case of this kind, pick out the testimony that relates to one respondent alone and separate it from the testimony relating to the formation and organization of the conspiracy. I remember at the inception of this case and before the trial began, it was claimed by some of the counsel that separate trials of these defendants should be had, and one of the grounds for a separate trial was that it would be unfair to ask any defendant to remain here when his case could be tried in an hour or a half a day. That entirely overlooks the proposition that all of the testimony as to the origin, the carrying on, the completion, the formation of the conspiracy is applicable to every defendant, whenever the proof shows that he becomes a part of it. The trial of one of these defendants alone would not have materially shortened this trial, or the presentation at least of the Government's testimony. In other words, the testimony as to each respondent must be considered in view of and in the light of the surrounding circumstances and conditions. You cannot throw the spot light on one corner of the picture; you must study and examine and consider the whole picture as it is, and then determine whether the individual defendant has had any relation to that; taking into consideration all of the circumstances and the surroundings; themeans of knowledge or want of knowledge; the conditions as they existed, and view the situation from that light, and not solely from the isolated piece of testimony that refers to this defendant or that defendant by name; that cannot be done.

As I have said, I have gone over the testimony and made a careful study of it with relation to each of the defendants concerning whom I have had any hesitation or doubt whatsoever, as to the right and the duty of the Court to submit that defendant's case to the Jury. As to a score or more, possibly two score, at least more than a score of these defendants, if this Court at this time, viewing the case as it does, were to refuse to submit the case to the Jury it would clearly, in my mind, be a miscarriage of justice. As to possibly eight or ten of these defendants, my study of the case leads me to believe that the case of each of those men comes close to the border line, and I have had some hesitation and some doubt. At the same time, I believe that there is evidence from which the Jury would be warranted in finding a verdict of guilty in each case as the case stands at the present time; and therefore, notwithstanding the embarrassment that will come to the Jury to differentiate those cases from the others; notwithstanding the unfortunate condi-

tion in which those few men are placed; and notwithstanding the additional burden that it may impose upon the Jury, if the case were to go to the Jury at the present time, and I must consider it in its present condition, I cannot change the rule of law, I cannot change the duty of the Court as I feel it. Counsel have spoken of embarrassment. I want to say that the court is acquainted with some of these defendants, as everybody knows, and it is not a little embarrassment under which the court is acting or attempting to act in the case of those men whom he does know. But at the same time I, as well as counsel, must lay aside any feeling of that kind and disregard any embarrassment that I have, and decide the matter as I see it under the law and under the evidence as it stands at the present time.

So that those are the two extremes. As to the defendants who may be said to occupy a position between the two extremes, I have no hesitation, no doubt at all, it would be an abuse of judicial discretion if I were not to submit their cases to this Jury. There is ample testimony to warrant a verdict of guilty if the jurors see fit to render such a verdict. With the verdict as it should be, of course, the Court is not concerned; that is a matter for the twelve men who will sit in the Jury Box.

A motion in each case to direct a verdict will be denied, and an exception will be noted to the ruling of the Court."

The jury was here recalled and addressed by the Court as follows:

Gentlemen of the Jury: In your absence, thirty-eight of the respondents who have been upon trial have been dismissed and discharged; twenty-three of those respondents have been dismissed upon the application of the attorneys for the Government and fifteen have been dismissed upon the Court's own order. In order that you may understand and know the respondents who have been dismissed, I will give you the list—the defendants:

Archie Anderson
Edward J. Bowman
Christian Brock
DeWitt Brown
Anton Bushak
Foster Cameron
Willis V. Capron
George Carrigan
Alfred F. Crawford
Fred Cronenwett
James Deevey

Mel R. Deo
John W. Dunn
Frank Ford
Benjamin Gero
Alexander C. Green
Frank E. Guinan
William F. Hosner
John Jones
Dan Kennedy
Bruce E. Laing
Daniel C. Laughlin
William E. Lewis
Frank D. McKay
Carl Mosier
Fred M. Northrup
Samuel Odell
John C. Rittenhouse
Timothy H. Ryan
Judd Ryno
James Swain
Alfred Taylor
Lewis L. Thompson
Claude Vanderveen
John Wagley
Arthur H. Wentz, and
Paul Woodworth.

Now, Gentlemen of the Jury, you have heard me repeat very many times in the course of the trial that the testimony of any one of the respondents given before the Grand Jury, and as related by witnesses here upon the stand, cannot be considered by you as against any other respondent than the one who testified before the Grand Jury. Applying that rule to the respondents who have been dismissed, you will disregard and not take into consideration any testimony as related by witnesses here in Court of any of these respondents who have been dismissed which was given before the Grand Jury. Of course, that is but an amplification of the rule which I have stated to you already. Those respondents having been dismissed from Court and their testimony before the Grand Jury not being considered as against any except themselves, of course it cannot be considered for any purpose hereafter in this case. The same rule applies as to testimony concerning the independent acts or declarations of any of these respondents who have been dismissed. Their declarations or acts cannot be considered by you—or, rather, evidence

concerning their declarations or acts cannot be considered by you as against any other respondent, any respondent who remains in the case.

There is one other matter: You are not to let the fact that these thirty-eight respondents have been dismissed influence you in any way, either for or against any of the remaining respondents. You have no right to take into consideration in any way as against any other respondents the fact that some respondent has been dismissed, nor are you to be prejudiced against the Government by that fact in any way.

DEFENSE.

GEORGE E. MILLER, being sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. MURFIN:

I live in Detroit and have been the editor of the Detroit News since some time in May, 1918. I had been in charge of the paper for a brief period from the first of February, 1918. Prior to that I had been Washington correspondent for a number of years. I have known the respondent Truman H. Newberry, I should say, since 1905, 1906 or 1907. My acquaintance with him has been very friendly; I would not say that I was intimate with him. I became best acquainted with him in Washington when he was Assistant Secretary of the Navy, and afterwards Secretary. I received the letter now shown me, marked Defendants' Exhibit No. 48, from Mr. Newberry, then Commander Newberry, at or about the date it purports to bear.

The letter was offered and received in evidence and read to the jury as follows:

DEFENDANTS' EXHIBIT NO. 48.

"OFFICE OF THE COMMANDANT
Third Naval District,

New York City.
280 Broadway, December 18, 1917.

PERSONAL.

My dear George:

I am sure you will realize that my duty here absolutely prevents my getting to Washington, and as I cannot see you in person I am asking Mr. Fred Cody who is going down to Washington, to have a talk with you on some

confidential matters, and I am hoping that you have not as yet gone home on your Christmas vacation, so that you will arrange to meet him.

With kind regards, and wishing you all the compliments of the season,

Sincerely yours,

TRUMAN H. NEWBERRY.

Mr. George Miller,
Detroit News,
Washington, D. C.

I had a call from the respondent, Fred Cody, perhaps a day or two before I received the letter. Mr. Cody stated the object of his visit to me.

Q. Will you state what that conversation was?

MR. DAILEY: The Government objects for the reason that it asks for testimony that is wholly self-serving and hearsay.

THE COURT: I will sustain the objection.

MR. MURFIN: Give me an exception.

THE WITNESS (continuing): I think I remember receiving the letter of which a carbon copy is now shown me marked "Defendants' Exhibit No. 49 for identification" from Commander Newberry on or about the date it purports to bear.

MR. MURFIN: I offer this in evidence, your Honor.

MR. DAILEY: The Government objects to the introduction of this letter in evidence for the reason that it is self serving and hearsay; for the further reason there is no proof of any kind that this identical letter reached Mr. Miller. It shows upon its face that it was only signed by the typewriter and is not the original, is not the best evidence.

THE WITNESS (continuing): I remember receiving the original of which this is a carbon. When I received a letter which is marked "Personal and Confidential," or "Personal" or "Confidential," I destroy it.

MR. MURFIN: Now, I can state to your Honor the theory of the offer of this exhibit. It is to show in point of time when the candidacy of Commander Newberry originated. It is to correct some testimony as to dates that has already been put in evidence, and is to be followed by other similar letters with this same person as bearing upon the question as to whether or not, as stated in the opening and as claimed by counsel, a plan was set on foot in December to buy the nomination of United States, and bears entirely on the question of intent and is part of the res gestae and shows the intent and situation existing at the time

when this candidacy was inaugurated. The object of this correspondence which I am about to offer, if your Honor please, primarily bears not alone on the date that the candidacy originated, but on the good faith of the candidacy and the question as to whether or not there was a conspiracy then or thereafter formed by improper means to do the things which Commander Newberry and his associates are charged here.

THE COURT: The question of the good faith of the candidacy of Senator Newberry is not in issue in this case.

MR. MURFIN: If your Honor will recall from Mr. Dailey's opening, he made the statement that he offered to prove, that he would show in December that Commander Newberry set out to buy this nomination. It is for the purpose of showing the motives which actuated what was done; it is for the purpose of showing a conference with people on whose judgment he relied, to show the integrity as distinguished from a criminal purpose.

THE COURT: I will sustain the objection.

MR. MURFIN: Give me an exception.

THE COURT: The difficulty with it is that it is wholly beside the issue and does not tend to show anything that pertains to the issue in this case. The good faith or the bad faith of Senator Newberry in entering upon his candidacy is not in issue in this case at all; and moreover, if it were, it comes within the rule of self serving declaration. The objection will be sustained.

MR. LITTLETON: We except. We want to offer the others and take exception to each of them.

THE WITNESS (continuing): The correspondence now shown me, which has been marked as a group Defendant's Exhibit 50 for identification, consisting of 12 letters exchanged between Commander Newberry and myself between the dates of February 1st and May 7th, 1918, with the exception of the letter of April 6, concerning which I am in doubt, is correspondence I had with Senator Newberry back and forths. The carbon copies are his letters to me; I destroyed the originals because they were marked "Confidential;" the originals are my letters to him.

MR. MURFIN: With that statement, I will offer Defendants' Exhibits 49 and these twelve letters marked Defendants' Exhibits No. 50 to 50K inclusive for identification in evidence. I will say to your Honor they are the same general character as the letter your Honor has examined.

THE COURT: And offered for the same purpose?

MR. MURFIN: Yes.

THE COURT: They will not be admitted.

MR. MURFIN: We will take an exception.
The letters referred to and excluded are as follows:

DEFENDANTS' EXHIBIT NO. 49.

January 29, 1918.

My dear George:

I was very sorry not to have seen you for a moment while you were in New York last week, as I am very anxious to get your coldest possible advice on a very serious (to me) subject.

No doubt you have heard of some rumors, or conversations, to the effect that some people either through over-enthusiastic friendship, or for some other unknown reason, have an idea that I ought to have or have a good chance to get again into public life. Of course, the suggestion is very flattering and very attractive, but what I hoped you would be able to do was to put forward all the difficulty and suggest all the argument possible against any such proceeding, for I do not want to be even left in a receptive frame of mind if in your judgment the situation is not really more than hopeful.

As the matter is left at present, the gentlemen who have talked to me and written to me on the subject, know that as long as I am in the Naval Service, where I hope to remain for the duration of the war, I can take no part whatever in politics. I cannot either criticize or praise public men or the Government's policies, and must remain absolutely silent and decline to be a candidate for anything.

If, however, the gentlemen who are to meet in Detroit yesterday and today to discuss this question, decide that I should allow my name to be used, I will acquiesce and hope for the best, but I did hope that you were going to be home, where I felt sure as an old friend you would frankly set forth every reason known to you why I should do nothing of this kind.

I hope when the time permits that you will let me have in confidence your advice and judgment on this situation.

Yours sincerely,
TRUMAN H. NEWBERRY.

Mr. George E. Miller,
Detroit News,
Detroit, Mich.

DEFENDANTS' EXHIBIT NO. 80.

THE EVENING NEWS ASS'N
The Detroit News
The Detroit News Tribune
Detroit, Michigan.
Feb. 9, 1918.

Com. Truman H. Newberry,
280 Broadway, New York.

My dear Truman:—

Your letter is a difficult thing for me to answer. On the practical side of the matter I am not a very good judge, since I have been out of the state for so long a time. But it may be that the situation offers no insuperable obstacles to your party success. Of that the man who is versed in state politics could give a more definite statement than I.

I have observed a tendency not alone in Michigan but all over the country to demand a different, a vastly different representation in both houses of congress. This comes from the fathers and mothers who have a boy in the army, and what family will not have one if it has not one or more already? These people, who are the nation, are not in the mood for the cheap politics of former times. They have too great a stake in this war. They will subject candidates for the house and senate to a scrutiny never before exerted, and right here lies the danger to the political aspirations of the man who cannot or does not measure up to the standard created by the unprecedented conditions.

The United States never will return to the status of before the war. A change so vast has taken place and is taking place that a return is impossible. It is a change which is physical, mental and spiritual, and I should say that if you have a single handicap greater than the possession of too much money, it is the inability, due to your naval position, to let the people know frankly and completely whether you are with them in this great change, whether you sense the great difference between a short time ago and now and whether you are prepared to go ahead with them along a road which a few years ago was mapped only by a few dreamers.

So it may be that while there might not be so much difficulty in securing the nomination from your party there

is a possibility of defeat in the election. This may seem strange, in a state like Michigan, and I may be mistaken, but I think not. The trend all over the country is in the direction of electing men who leave nobody in doubt as to where they stand on the vital questions raised by this war and who can be trusted implicitly to see that another war is made a thing most unlikely.

Sincerely your friend.

GEO. E. MILLER.

DEFENDANTS' EXHIBIT NO. 50a.

PERSONAL. February 24, 1918.

My dear George:

In order to correct a rumor which my office tells me is more or less current in Detroit concerning my interest in the Detroit Times I want you to know the exact facts.

I have known Jim Schermergorn for many years and when he started his paper I subscribed to some of his stock which I had put in the name of my secretary, Fred Smith, as I did not want to be identified with any newspaper. About a month or so ago he sent me word that his business could be saved if the stockholders would help him out with a few thousand dollars, and I then did for him what I would do for any friend; and have done a good many times in order to prevent a financial disaster. As I told Fred Smith, if my small subscription would prevent bankruptcy that I would subscribe the amount requested, which I believe was about $1100. I have never spoken or written to Schermerhorn about his paper, nor paid the slightest attention to it. If you think any suggestions of mine to Schermerhorn concerning his business would have any effect on his action I would be glad to make them, but in view of the fact that my interest in his paper is in no sense an investment, but only the result of friendly interest in a man who was trying to get ahead I do not feel like mixing my friendship with his business unless the matter is urgent.

I wonder if you have received my letter of January 29th?

Sincerely yours,

TRUMAN H. NEWBERRY.

Mr. George Miller,
Detroit, News,
Detroit, Michigan.

DEFENDANTS' EXHIBIT NO. 50b.

March 4, 1918.

My dear George:

In the early part of February, may be about the tenth, there was a cartoon on the front page of the "News" entitled—"Colonel is Gaining Every Day," which represented Colonel Roosevelt strutting along with a spear over his shoulder on which were several of his old antangonists. I thought it was so good that I took it to Mr. Roosevelt and wrote on it that the cartoonist was as happy as I was that he was getting better.

I am enclosing a note signed by Mrs. Roosevelt which I thought you might like to show to the cartoonist, whose name I do not remember, and tell him that the Colonel told me later that the cartoon had cheered him up more than anything of the kind did since he had been in the hospital.

Sincerely yours,

Enclosure. TRUMAN H. NEWBERRY.

DEFENDANTS' EXHIBIT NO. 50c.

March 25, 1918.

My dear George:

I wrote you on March 4th, 1918, sending you a letter from Mrs. Roosevelt, together with a cartoon which amused the Colonel. I fear it never reached you as I have never heard from it. If it has reached you, please don't think I am pursuing you, because I am going to again ask for your advice.

I have in mind a brief statement of my opinions on current matters and I am hoping you will be a good enough personal friend of mine to let me send it to you for criticism, realizing that whatever your personal friendships are, they will have nothing to do with the policy of the paper you are running so well.

You might be interested to know that Mr. Stair told me the other day that you have greatly improved the paper since you have taken charge of it.

Sincerely yours,

TRUMAN H. NEWBERRY.

Mr. George Miller,
c/o Detroit News,
Detroit, Mich.

DEFENDANTS' EXHIBIT NO. 50d.

THE DETROIT NEWS
Published Daily and Sunday by
The Evening News Ass'n.
Detroit, Mich., March 27, 1918.

Dear Truman:

I guess the Roosevelt Cartoon matter is a horse on me. I thought I had acknowledged receipt of it, but when your note arrived I looked it up and found I had inadvertantly declared a moratorium of that obligation. It certainly was a great pleasure to find the colonel enjoying the cartoon and a greater one that he had recovered sufficiently to enjoy anything. I was afraid when he went to the hospital that we might lose him because he is not the chap to go to a hospital for a fleabite.

Of course I shall be glad to have the opportunity to look at your declaration of principles, and be more glad to print the same, especially if I may be expected to scoop your own paper on it. I know you will have the courage of your convictions, whatever may be your views on current issues.

With sincere regards,

Very truly yours,

GEO. E. MILLER.

Commander Truman H. Newberry,
New York, New York.

DEFENDANTS' EXHIBIT NO. 50e.

PERSONAL March 30, 1918.

My dear George:

I am not very proud of the enclosed draft of my platform but it expresses as well as I know how my views on important current topics. I think my English is rotten but I will improve it before I publish it. I feel sure that you know that I want to be explicit and state frankly what I believe, and I shall never leave anybody in doubt as to my views on any subject in which I have enough information to express an opinion.

All political platforms are more or less "bunk" and are subject to change with the wind, but if anybody wants to know my personal views I shall have no hesitancy in expressing them publicly or privately.

I will not be able to publish this without the approval

of the Secretary of the Navy, and I do not believe that
should be published or that political matters should
taken up until our Liberty Loan and Red Cross drive a
well out of the way. What do you think of this muc
delay? I will ask you to treat the matter as confidenti
for the present.

The paragraph about the future of railroad owne
ship and operation is vague, but no one can foresee no
what will be necessary twenty-one months after peace
declared. Peace will not be declared probably un
many months after the termination of hostilities. E
perience alone will enable us to reach a decision in th
matter which so deeply affects the future of our countr

Please be as brutally frank in your criticism as yo
can, because that will be the only thing that will help n
at all.

I appreciate the joke in the reference to my "ow
paper" for I am sure you realize fully that I have no i
terests in any paper that is in any sense an investmen
I shall be very glad to dispose of my own and my brot
er's interest in the Times if you know of anybody wh
will take it off of my hands at or without a price.

Yours sincerely,

TRUMAN H. NEWBERRY.

Mr. George E. Miller,
The Detroit News,
Detroit, Michigan.

DEFENDANTS' EXHIBIT No. 50f

THE DETROIT NEWS
Published Daily and Sunday by
The Evening News Ass'n.

Detroit, Mich., April 2, 1918.

Dear Truman:—

I have read your proclamation and have no doub
everybody who reads it will agree that it is about wha
they had expected you to give out. The section indors
ing female suffrage will be recognized as a bid for sup
port and nothing more, for the reason that no man wh
has studied the origin and history of civilization and ha
the courage of what he knows would support female su
frage as now offered to us.

With more than two million members of the I.W.W

in the United States and the Russian empire just shaken to pieces by the Bolsheviki, it seems to me that the statesmen we need in this country are men who perceive the danger before us as a nation and who will have the courage and wisdom to take the necessary steps to save us from the possibility of Russia's fate.

We seldom look to any of the South American countries for an example to follow, yet it surprises me that none of our public men ever have taken a lesson from Brazil and the things done by that country to conquer the justified unrest of the laboring population. This, particularly, in Rio Janeiro.

Sincerely yours,

GEO. E. MILLER.

Commander Truman H. Newberry,
New York, New York—

DEFENDANTS' EXHIBIT No. 50g

THE DETROIT NEWS
Published Daily and Sunday by
The Evening News Ass'n.
Detroit, Mich., April 9, 1918.

Dear Truman:—

You jump a little too fast in your conclusions. The game is young, yet, and we are "lookin' 'em over", seeking to make a very clear analysis of each offering because we realize so keenly the great need of this state to stand out in front for once in the national hall of fame.

The thing which stands out clearly all over the world is the unrest of the under stratum of society. We have seen Russia shot to pieces because that unrest took definite form. We are told that in the United States the I.W.W. has more than two million members. Out beyond the Mississippi river the non-partisan league is organizing at the rate of approximately a thousand new members a day, operating in half a dozen or more states.

These things mean something momentous. They will not be stopped by the old platitudes which have served in the past. Something fundamental will have to be done. We are going to send men by the million to the other side. These men will offer their all in a greater sense than you would were you to tender every dollar you own to the country as a free gift. What do you

expect will happen when these men, or those who survive, return to the United States and find that while they were offering their lives men who remained at home and who already had millions were demanding of the government such profits for instance as the Hog Island crowd are to receive.

What will they think of the whole "cost-plus" bunch, who without a cent of risk took fortunes out of that government which the boys in the trenches risked their lives to save?

The government of Brazil, finding a state of threatening unrest among the laboring people, especially in Rio Janeiro, where the cost of living had gone so high as to pinch as it is doing in this country today, built homes and sold them to the workingmen at cost. That was a small thing in a small country, but it was a tangible step to meet a situation promising revolution if not met.

The Brazilian trouble was solved, as I understand it, and it is certain that in this country we have to face something which demands solution a hundred times more forcibly than anything that ever came up in Brazil.

There can be not the shadow of a doubt that we in the United States are face to face with something we never before were called upon to meet. It is developing more rapidly than many people can appreciate. And it will require the highest order of ability in Washington to meet it as it should be met. The German propagandists, I am told, have taken advantage of it wherever they could worm their way in, to add to the trouble as much as they can. I hope these chaps will be weeded out through the action of the present session of congress, but even if they are, we shall have remaining a sufficiency of a case to handle and it will call for the very best men we can find to send to both houses of congress.

That is why I feel like going slowly in examining the various candidates for the senate. This is no time to make a mistake.

With sincere regards,

Very truly yours,

GEO. E. MILLER.

Com. Truman H. Newberry,
New York, N.Y.

DEFENDANTS' EXHIBIT No. 50h

PERSONAL & CONFIDENTIAL April 6, 1918.

Dear George:

Maybe I didn't get much help or advice from your letter of the 2nd, but I am thankful you wrote it. If that proposed statement is as you say about what I "was expected to say", then my friends (if any) will be satisfied, but I assure you that I am not for I dislike and despise the usual bromidic political screed, which is, of course, intended to get votes.

As to female suffrage, I have voted for it because it is right that human beings of equal intelligence should have an equal voice in our government. I don't believe in universal suffrage but we cannot restrict male suffrage now; it is too late. I think aliens should have to live here as long and know as much as our own boys, and I am sorry that female suffrage will double our present too liberal franchise rights. Still I would vote again to do the fair thing and am not afraid to say so out loud.

Your editorial "Running for Senator" is so pat, that I want you to know, as a friend and not as a publisher, just how I think about each statement, and also why I am, or think I am, a reasonably fair type of candidate.

I have considered long, sincerely and searchingly, my all too few qualifications. Some are loyality, education, experience, a desire to serve and help others, honest, sincere, sober. I deeply realize the great responsibilities of high office, and have no interest to serve except my Country and my State. Any sane political ambitions would be satisfied with being in Theodore Roosevelt's Cabinet, and so mine were. I truly dread the thought of giving up my home and living in Washington, and am only a candidate because men unselfishly interested in good government have urged me to be.

Every intelligent person whole-heartedly agrees with your four negative reasons, and no one is more opposed than I to any improper or even questionable use of money, and not one cent will be spent by me or in my behalf with my knowledge and consent, that cannot be published to the world, and this keystone principle of my candidacy I wrote out and delivered months ago to those concerned. Neither Mr. Templeton, Mr. King nor Mr. Oakman have ever or expect ever to receive one cent

(except actual travel and publicity costs) from me. They have not suggested such a thing. Their reasons for being for me are not known to me but probably have to do in one or two cases with their own political future. No promises have been asked of me nor have any been made, and I hope you know me well enough to believe me and to be certain that if elected I will be free of all influences and that I am not yet afraid of much or many.

Now, please give me a little or lots more light on your editorial. What are the problems arising that must be dealt with almost immediately, etc.? I know they are as yet unstated. I feel them but cannot express them beyond the words readjustment of compensation for labor of all kinds; equalization of the burden of taxation by existing or greater super taxes on incomes, and a revolution in our inheritance tax laws, whereby the amount that can be devised will be fixed and the balance go to the state which is exactly the reverse of our present law. This last is Socialism but has some reason, as it is only by the present permissive laws of our several states that any property can be distributed after death. I believe that the contest after the war will be not **against** these and other radical changes, but will be to make the changes fair.

You write of what the men coming back from France think about the objects they and I have tried to risk our lives for. Besides the phrase about "The World Safe for Democracy", do you think that many can or could give other reasons, or would many agree on what these other reasons are?

As for labor questions I learned from thirty years as an employer about them, and from all the Union Labor Leaders every week for over four years in Washington, where I handled the pay and work of 45,000 men engaged in nearly every trade known. I believe in Unionism but also the Open Shop (which by the way has made Detroit what it is industrially). I believe in the collective bargaining of labor by those actually concerned, and so should employers collectively and fairly deal with labor, and all these dealings be on top of the table and with open doors. No secret diplomacy in world politics, labor disputes nor in state primary campaigns.

Now, George, if you know the heaven sent man that can know all the problems and settle them in advance

so as to suit everyone—soldiers, sailors and the other 100,000,000 inhabitants who were not selected or needed—I wish you would name him so I can vote for him and ask my friends to.

If you ever find time to read this through, I feel I must repeat that this is a private confidential letter to an understanding friend, and for the purposes of this essay I am truly sorry you are now in such a (or any) responsible position in the newspaper world. Please try and divide yourself and know that if you were only you, I would write this just the same and ask for your help. Regardless of where your paper's policy may lead I hope our friendship may not be diminished.

Please forgive this "blat" but I am alone here in my hotel home and want to talk to and with you.

I do not expect the News' support so let us drop that angle of my predicament.

Sincerely yours,

TRUMAN H. NEWBERRY.

Mr. George E. Miller,
The Detroit News,
Detroit, Michigan.

P.S—In the last paragraph of your letter, you speak of the steps taken by Brazil in overcoming her labor unrest.I would very much like to read of this and would appreciate your sending me the names of any publications dealing with this subject, and I forgot to ask you if you believe in compulsory union membership. I have read all the documents you refer to and some others. Do you like Norman Hapgood's ideas in Leslie's of April 6?

T. H. N.

DEFENDANTS' EXHIBIT No. 53i.

CONFIDENTIAL April 12, 1918.

Dear George:

In your letter of the 9th there are two statements that I ought to comment on, and that is where you speak of sending millions of men to the other side, and what they are offering. Please remember that I have offered my life too, and so have my three children, so please do not

confuse me with money matters when you talk about this war. You must know in your heart that no man with red blood in him would hesitate to give every cent he had in the world if he could stop this war and have his boys home with him.

When you speak of the "Hog Island crowd", I suppose you mean that the American International charge of 5% for superintendence was excessive. The total certainly is enormous but the rate is less than engineering superintendents have always charged. I think myself that they would have found patriotic citizens of supreme ability who would have done the same thing for nothing; certainly they might have found men in the Government service who would have done it without expense, but evidently those in authority thought differently, and I am not in a position where I can criticise the Government—nor do I want to.

In regard to the "cost-plus" bunch—I think it was the worst method of doing business that I could imagine, because it was on the same principle that one engages an architect; the more the job costs the more fees the man gets, but this was the Government plan and not the plan of any manufacturer I ever heard of. It frequently was necessary because the Government changed its plan as the work progressed. The one contract of this kind that I know of provides for a profit of 12%, which, of course, is less than any manufacturer can undertake to figure on in business, which fluctuates. I firmly believe that no person should make one dollar of profit because of the war, and hope the Government will so arrange its taxes that every dollar made by an individual or corporation in this way will be transferred to the United States Treasury.

I hope when you have "looked 'em over" enough to reach any decision as to who would be the best candidate for the Senate from Michigan, that is, the best for our country and our state, that you will let me know.

Sincerely yours,

TRUMAN H. NEWBERRY.

Mr. George E. Miller,
Detroit, Mich.

DEFENDANTS' EXHIBIT No. 50j.

THE DETROIT NEWS
Published Daily and Sunday by
The Evening News Ass'n.
Detroit, Mich., May 6, 1918.

Com. Truman H. Newberry,
New York, New York.

Dear Truman:—

I guess I made you somewhat angry in my last letter, which probably was good for you. I had intended to have a talk with you about it when I attended the Associated Press annual meeting but the street car situation here became suddenly acute and I was called back.

The fact remains that so far none of our numerous candidates for the senate has shown an appreciation of the vast change this war is to bring to us, and how impossible it will be to go ahead along the old lines when the boys come home from France.

We shall not have immeasureable areas of public lands to hand to these soldiers as a grateful gift from the government, as was the case when the problem of what to do with the returning civil war soldiers became a great national question. What I meant to do was jolt you so you would think long and deeply on the matter in the hope that presently you would issue a statement which would be a real statesman's platform. Such a statement, in my opinion, would be good reading.

Very truly yours,
GEO. E. MILLER.

DEFENDANTS' EXHIBIT No. 50k.

May 7, 1918.

Dear George:

I must be a very rotten letter writer if there was anything in my last letter that made you think I was in any degree angry or at all irritated. I did hope that I had made myself understood, but as I evidently failed I think I will abandon all further effort to communicate my ideas in writing.

As a matter of fact, I was very thankful for your previous letter and for the opportunity to explain some of the things I had in mind and to ask for some further information concerning your views on current and future topics.

I am really content and happy over what I am doing and have no grievance or grouch against anybody on earth—least of all against yourself whom I am going to continue to count as a friend, which is my only excuse for inflicting my previous letter upon you.

I am sorry, of course, that I cannot measure up to your very reasonable standards of what a senatorial candidate should be, and this is shown by the fact that my last letter did not in any way indicate to you that I had any appreciation of the vast changes this war is bound to bring, as well as my firm conviction that all the old lines will be wiped out long before anybody comes back from France victorious.

I am sincere when I say that I thank you for the friendly interest which is deep enough to want to make me think long and deeply, and I assure you that I have, —as I tried to write you before on this particular subject. However, I feel perfectly certain that I can never write a statement which would be a "real statesman's platform" unless some friend would be good enough to give me his definition of what a "real statesman's platform" should be under the existing conditions. My deficiencies I know too well and you may be sure I shall not try to hide them—which would be foolish even if possible.

I was disappointed when I learned that you had been in New York three days and had not even let me know, and am relieved to know that you would have seen me if you had not suddenly been called back. Here's hoping you will let me know when you are coming next time, so that I can force myself on you and get your ideas on some subjects that I have been unsuccessful in getting through the mail.

Please accept my sincere congratulations on your well-deserved promotion to Editor of the Detroit NEWS. I know how well qualified you are, and, as I think I have told you before, I have heard competent business men, who might be considered rivals, express their high opinion of your unusual qualifications for the work you are doing.

Sincerely yours,
TRUMAN H. NEWBERRY.

Mr. George E. Miller,
c/o The Detroit NEWS,
Detroit, Mich.

GEORGE S. LAIDD, being sworn as a witness on his own behalf, testified as follows:

DIRECT EXAMINATION BY MR. MURFIN:

I am one of the respondents in this case. I reside at Sturbridge, Worcester County, Massachusetts. I have lived there about 63 years; on the twentieth day of this month it will be 63 years. I am a farmer living on my farm, and for the past twenty years I have been engaged in lecturing more or less all over the country. I was an officer of the Massachusetts State Grange for 25 years up to December 1918, holding the position of Chairman of the Executive Committee. I became acquainted with Senator Horatio S. Earle, sometimes called "Good Roads Earle" of Michigan, in 1910. Every time I came this way I went to see him. In July 1918 I received a letter from Mr. Earle requesting me to come to Michigan. I did so. I should say I was in Michigan two years before. I never resided in Michigan. I left my home the thirtieth day of July and came directly to Detroit, where I had a conversation with Senator Earle. He told me that the reason he had sent for me was that some of his friends wanted to elect Truman H. Newberry to the United States Senate; he wanted to know if I would go on the stump for Mr. Newberry. He said that they thought that Truman H. Newberry would be a credit as Senator to Michigan and a credit to the United States; and from the work that I had done in the Road Campaign as a speaker he thought I could help, and I told him because of my obligation to him in that Road Campaign I would stay two weeks. He told me he wanted that I should go on the Speaking Bureau, and he went there with me; it was in the Ford Building. There he and I met Mr. King and Mr. Chilson. I had never met or heard of either of them before. I have seen a list of the 135 men indicted in this case. Before I came to Michigan on the 30th or 31st of July, 1918, I cannot recall that I had ever heard of one of them. I had a conversation with Mr. Chilson concerning my going on the stump, at which Mr. Earle was present. As I recall it, Mr. Chilson said that Mr. Earle told him he thought I could help if I would go on the stump for Mr. Newberry. No arrangement was made for compensation or hire or pay or anything of that kind, nor was the subject discussed. Before I started for the first engagement they had me booked for, Mr. Chilson said to me: "I do not know anything about your financial condition, but I know you come pretty near a thousand miles and here is $100 to pay your car fare out"; and I put that money in my pocket and paid my rail-

road fare. I was in Michigan on this errand for which Senator Earle sent for me four weeks lacking one day. I left Michigan August 25th. I could not say how many speeches I made. I think I spoke at least every other day, but I could not fix it definitely. I went wherever Mr. Chilson sent me; I went to different parts of the state. It so happened I came back to Detroit once in three or four days. They mapped out my routes. Mr. Chilson would give me one, two or more places to go to and make speeches, and I would go on that tour, make the speeches and come back to Detroit. Then Mr. Chilson would send me around again. There was at no time any talk between anybody about salary or compensation that I was making these speeches for. I told Mr. Chilson that I was going back to Massachusetts the Friday of the last week that I was here; I told them I had got to be in Boston on Monday and would have to leave Saturday night. Mr. Chilson asked me how much they owed me and I told them they did not owe me anything; if they cared to pay my expenses, it was all right; and if they did not, it was all right. Upon that he wrote me a draft for $350, which I cashed in Detroit. Then I boarded the train and went back to Sturbridge. I had nothing else to do with the Newberry campaign. I do not recollect having met any men connected with the campaign while I was in Michigan, aside from Mr. King and Mr. Chilson. I have told you now absolutely all I had to do with this campaign. I never inquired from Mr. Chilson or Senator Earle or from anybody else as to who was furnishing the fund with which to carry on this campaign. Nobody ever told me anything about it. I never solicited funds from anybody. There was no criminal or improper intent in anything I did in connection with this campaign.

CROSS EXAMINATION BY MR. DAILEY:

I got Mr. Earle's letter the last part of July. No time was fixed by me, either by telegraph or any other way, upon which I would arrive in Detroit. I had not seen Mr. Earle for about two years. After a short talk with Mr. Earle at his office in the Ford Building, which according to my recollection is on the 14th floor, we went to what I suppose were the Newberry Senatorial Headquarters on, I think the third floor of the same building. Mr. Earle introduced me to the defendant Paul King and Chilson. Mr. Chilson was introduced to me as the manager of the Speaking Bureau. I do not think I talked with Mr. King but a few minutes. I was not in his private room; I was in the general office there. When Mr. Chilson and I had our talk, we went into

a little office right on the side of the office where Mr. King was. Mr. Earle stayed during the entire conversation. I was not informed in any conversation that I had, either with Mr. King or Mr. Chilson during the time I was making speeches for Mr. Newberry through the State or before I commenced, that my work would be more effective if I did not let it be known that I was acting for the Newberry Committee. I was not told that I would not be advertised as speaking for Mr. Newberry in the campaign or that I would be advertised as speaking on the subject of good roads, or some other subject, and that during that time I should bring in Mr. Newberry's name. I testified before the Grand Jury in this case, but I do not think I testified to that in substance. I think you asked me before the Grand Jury whether I was informed that in the advertisements to be made of my speeches I would be sent to picnics, good roads meetings and other supposed non-partisan meetings, and whether I was told not to let it be known in advance that I was to speak for Mr. Newberry, and that I should first talk on the subject of good roads, or some other subject non-partisan, and that then I should fling in the candidacy of Mr. Newberry, and that I told you that I had no recollection of that conversation; that is my remembrance. I did not say to the Grand Jury that I went out over the State and spoke under those conditions, and that there were several places where they found that I intended to speak for Mr. Newberry, and where they would not permit me to speak. There were two or three meetings where they refused to allow me to speak because I was speaking on political matters for Mr. Newberry. There were two or three occasions where the Committee said that no political speeches would be allowed, and I did not try to. They told me that all political speeches were barred. I cannot name any of the counties or towns or cities in which I spoke for Mr. Newberry. I am not familiar with your State and the geography of it; I cannot tell where I was. I cannot name a single place by the town. I never figured up my traveling expenses in Michigan during the time I was within the State. I do not know what my expenses were, but I think it took nearly all the money that I received to pay my expenses until I got home. I do not remember that I was introduced to any one except Mr. King and Mr. Chilson the first day I went up into the Detroit headquarters. I saw some other people there, but I could not tell who they were. I could not say whether I was introduced to Mr. Turner. I do not remember anyone except Mr. Chilson and Mr. King. I was introduced to other men up there at different times when I was there. I think Mr. Chilson

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gave me some pamphlets in order to prepare me for my speeches that I was to make for Mr. Newberry. I think I took the literature to the hotel the first day I was there. I took the $100 with me the day that I first went out to speak, which I think was the next day after I arrived in Detroit. I think that Mr. Chilson gave me the first $100 about noon. I went to the Newberry headquarters to know where I was to go that night. I saw Mr. Chilson again. I do not think I saw Mr. King. I do not remember that I met anyone but Mr. Chilson, I was simply there to get my itinerary. This first $100 was given me in bills. I do not think I gave him a receipt for it. This $350 that was given to me was in the form of a draft. I could not say on what bank, and I have not any record of what bank it was drawn. The only time I was in the Union Trust Company was when I cashed that draft just before I went home. Almost four weeks elapsed between the time I got the $100 and the time I got the $350. I do not know that Mr. Blair provided Chilson with it to pay me. I have employed Mr. Murfin as my counsel in this case. I gave him a written authorization to appear for me, and when I get through I shall ask him for his bill and I shall pay him. I could not say how many Good Roads meetings I attended in 1918 during this primary when I was making speeches over the State. I do not know how many were advertised as Good Roads meetings. I do not know that any were; I do not know how these meetings were advertised. I attended no regular Grange meetings during this time that I was out making these speeches.

RE-DIRECT EXAMINATION BY MR. MURFIN:

I do not know that I have ever seen Mr. Frank W. Blair up to the present minute. Mr. Chilson would usually have three or four meetings scheduled up for me and when I came back to Detroit he would give me just a little memorandum on a paper where I would go to change cars, and like that. I never attended a meeting at which I found myself advertised by name as a prospective speaker.

WALTER H. SAWYER, being sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. MURFIN:

I am a practicing physician. I have lived in Hillsdale, Michigan, nearly thirty-five years. I have been Regent of the University of Michigan for a little more than fourteen years. I know Frank P. Robards. I have known him upwards of [illegible]

ty-five years. He has lived in Hillsdale substantially that length of time. I know the general reputation he bears in the community in which he lives for truth and veracity. It is bad. I would not believe him under oath.

GEORGE W. LYONS, being sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. MURFIN:

I have lived in Hillsdale thirty-nine years. I am in the general insurance business. I have been in that business twenty-two years. I know a man in Hillsdale named Frank P. Robards. I have known him all my life. I know the general reputation for truth and veracity which he has in the community in which he resides. It is very bad. I would not believe him under oath.

PAUL H. KING, one of the respondents, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MURFIN:

I am the Paul H. King who is a respondent in this case. I am forty years old. I have been married since 1910 and have three children. I was born in Arapahoe, Nebraska. I lived there just a very short time. From there we moved to Iowa, and lived in Anita, Manchester and Marshaltown, until I was about ten years old. From there we went to South Omaha, Nebraska. Our family then consisted of my father, mother, one sister and myself. As I remember, we lived at South Omaha about one year, and then went to the State of Minnesota, where we lived about four years. I went to work when I was about nine years old. My first employment was selling newspapers on the streets in South Omaha. I was a page in the Michigan House of Representatives in the sessions of 1893 and 1895. My family then consisted of my mother and my sister and myself. I think we left St. Paul on the 24th of April, 1895, and came to Michigan. My mother and sister came with me. We settled down to live at Dowagiac, Cass County, Michigan, and I was there with intervals during sessions of the legislature at Lansing until January, 1901. I was a page in the State Senate in 1897, the regular session, and in 1899 I was the page to the Secretary of the State Senate, Charles S. Pierce. During the 1901 session of the Legislature, I was one of the desk clerks. I was journal clerk of the House of Representatives, and in 1903, 1905 and at the regular 1909 session I was journal clerk. If I recall, there was a special session in 1907 and at that time I was elected Clerk of the House

of Representatives. I think I served two regular sessions and one special session. I was Secretary of the Constitutional Convention which, as I recall, convened in October, 1907, and lasted until the month of April, 1908, and I was in daily attendance there. I did not attend any school until I was about ten years of age. My mother had been a school teacher and taught me at home. I went to school for a very brief time until my father died. Then I managed to work my way through the high school in Dowagiac, graduating there in the class of 1898; I think possibly five years would cover all of my schooling. I studied law while at Lansing in the Secretary of State's office and in the Michigan State Library, and was admitted to the bar on examination before the Board of State Law Examiners. In the fall of 1917 I was elected a member of the Charter Commission of the City of Detroit. That was a Commission elected by the voters of Detroit at the November election in that year to revise the charter. I served as a member of that Commission about ninety days, as I recall, before the charter was prepared and submitted to the voters. From June 4, 1914, until June 14, 1917, I was one of the three receivers of the Pere Marquette Railroad. My associates were Mr. Frank W. Blair, who is one of the respondents in this case, and Mr. Dudley E. Waters. Mr. Waters continued until the close of the receivership; Mr. Blair, as I remember, resigned on the first of September, 1914. I think Mr. McKee and I opened our offices on the 1st of October, 1917. He was actively interested in war work at that time, as I recall. I think my active duties as a member of the Detroit Charter Commission commenced about a month after the election in November—twenty or thirty days—I have forgotten now. At present I am one of two referees in bankruptcy for the Eastern District of Michigan.

I was first approached in connection with the Newberry Senatorial Campaign in February, 1918, just as we were closing up the work of the Charter Commission. I cannot remember the exact date; it seems to me it was some time after the 20th of the month, in the twenties. One afternoon just before the adjournment of the Commission, ex-State Senator George Scott of Detroit, called me one side and said that some friends of his wished to meet me that evening at the Hotel Statler, and asked me if I would be good enough to go to the hotel to meet them; I told him I would. I went to the Hotel Statler that evening. I think Mr. Scott and the respondent Fred Cody were there. The respondent Templeton came in while we were there, as I remember it. I think Mr. Templeton was at that time the Presi-

dent of the Detroit Board of Commerce. We had dinner in Mr. Cody's room. I cannot remember just the dialogue or the conversation, but it was substantially that the friends of the then Commander Truman H. Newberry were considering taking up the work of a campaign in his behalf for the United States Senate. I had had previous experience in handling a campaign. I had been Secretary and one of the managers of the so-called Townsend Senatorial Committee in Michigan in the year beginning in October, 1909, and extending through to the primary in 1910. I had also been secretary of the Republican State Central Committee in 1910. We visited at some length, possibly a couple of hours. It was stated that if this candidacy should be launched that it would be promoted by business associates and friends of Mr. Newberry. At that time I had no acquaintanceship with Commander Newberry; I think I had met him. I did not on that occasion give these gentlemen any answer to their suggestion that I undertake the management of the Newberry campaign. I stated to them that I had just entered upon the practice of law in Detroit. I think I told them that back in 1909, when I opened my law office in Lansing, I had promised myself and family that I would not take any further active part in politics. Then followed the Townsend campaign. At the earnest solicitation of Congressman Townsend, I embarked upon his campaign, and that was followed by the Secretaryship of the State Central Committee and the Clerkship of the House of Representatives, so that my law office really did not get started in Lansing, and I was determined not to have that happen again, and so told these gentlemen, that the Townsend campaign had been a very strenuous campaign, that I had really impaired my health, and I had no inclination or desire to get into another state wide campaign of any kind. I had been through a state wide campaign just the year before as director of the First Red Cross War Fund drive which, while short, had been also strenuous, and yet they urged me to take the place if they should have a Committee and go ahead. They wanted me to take an active part in it out of my acquaintance and familiarity with conditions in Michigan. I finally said, "Well, I will talk it over with my wife." I had promised her I would never go into another campaign, and would talk it over with my business associate, Mr. McKee, and I think I said I would mention the matter to Arthur T. Tuttle, the United States District Judge who for years had been my warm personal friend, and to Judge Clyde I. Webster, now of the Wayne Circuit bench, and see what my family and business associate and friends thought about it. I afterwards

discussed the matter with my family and with my partner and with my friends, Judge Webster and Judge Tuttle. After that discussion there was one other matter that I was not sure about. I had been secretary of the State Central Committee and had a considerable active part in the Bay City Convention of 1912.

Because of the difference of opinion that had arisen at the Bay City Convention, I expressed a desire to confer with the Commander himself before I would give an answer to the suggestion that I would manage this campaign. I wanted, to know before I started out on any such enterprise, how he personally felt toward myself. I did not know. I had not seen the Commander since the episode at the Bay City Convention. As a result, I went to New York to see him. When I got to New York, I saw Commander Newberry and had a short conference with him at his apartment in the Hotel Gotham. Later he went to the Biltmore. Mr. Fred Cody, the Commander and I were present at the conference. Mr. Newberry met us at the door and shook hands and he said, "Well, young man, I have not seen you since the day over in Bay City when you made me sit on the church steps across the street from the Armory." I said, "Well, that is quite a while ago; I had forgotten about it myself"—something of that kind. The conference, if you might call it that, was very brief. He was about to leave for the hospital to see Col. Roosevelt who was ill. We discussed generalities, political conditions generally in Michigan, and Mr. Cody said that some of Commander Newberry's friends were anxious that he should be a candidate for United States Senate and that the matter had been mentioned to me, and that I was considering whether or not I would take an active part in the campaign, but that I wanted to know what Commander Newberry's personal feeling was toward myself individually before I decided the matter. I think there was some general conversation about the expenses of the campaign at that time. I think Commander Newberry made a general inquiry as to what would be the expenses of a state wide campaign, and I said that in the Townsend campaign that it had cost Senator Townsend's friends approximately $20,000, to meet the expense of that campaign, but on account of changed conditions in Michigan and throughout the state, that it would cost his friends probably considerably more than that, possibly $50,000 to conduct the kind of a campaign, the Publicity Campaign that would have to be conducted if it were to be successful; that Mr. Townsend had been very active in Michigan politics; had been a Congressman for a number of years, that he was very well known, while Commander

Newberry had been a cabinet officer, he was not so well known in Michigan, and it would entail a greater degree of publicity and would probably for that reason cost more; that I did not know how much a campaign would cost, nobody could tell that, that if his friends decided to go ahead with his candidacy, it would probably cost at least that much. From that time on, money or expenses were never discussed with Commander Newberry at any other time. I did not on that occasion tell either the Commander or Mr. Cody while I was there at New York whether or not I would take the management. I returned to Detroit and talked the matter over further with my wife, and spoke to Mr. McKee about it, and asked if he had any objection. He said he had not. Finally, after a day or two—I do not remember how long it was—I told Mr. Templeton that I would accept the position of State Executive Chairman or Manager of Mr. Newberry's committee of friends. I took steps to open offices for the direction of this campaign in the Ford Building almost immediately. I made some survey of the possibilities for office space in the various office buildings in Detroit. Mr. McKee, my law partner and a respondent in this case had a discussion between ourselves as to the location of my political offices. The ultimate result was that I would not establish my political headquarters near our law office and the Red Cross office. Mr. Frank Emery, who had been associated with me in the Pere Marquette reorganization was then not employed, and I asked him to help me find a place and we looked over various buildings. We could find nothing except a small suite of offices on the third floor of the Ford Building, and we finally took those. I think I arranged with Mr. Emery to act with me as one of my assistants right away after I had told Mr. Templeton I would undertake the management of this campaign. Mr. Emery was the first man that I employed to assist me. I said to Mr. Emery that he would have to have some compensation, and that I wanted to pay him whatever was right. He had been getting, I think, about $150 a month or thereabouts with me in the Pere Marquette, and I suggested to him that he might start in at that figure, and he said he would think about it; and the next morning he came down and said he had talked with his wife and they thought he ought to have at least $200 a month. I said, well, we will not quibble about $50 a month, and that was his compensation at the beginning. It was afterwards raised to $300 per month. I think the matter of my own compensation was suggested at this first conference with Mr. Cody and Mr. Templeton—whether or not I would care for compensation. I said

that I would not think of such a thing. I told them very frankly that I had just opened my law office and that I was desirous of establishing connections in Detroit that would help to bring business to the office; that I had had a very wide state acquaintance but not a very wide Detroit acquaintance. I did not have a wide acquaintance with the business and financial men of Detroit locally. I got the first money that was used in any way in connection with this campaign from Mr. Templeton. It was a check, I think, as I remember, for $1,000 to the order of Mr. Templeton, and endorsed by him. I deposited that check to my credit in the Commonwealth Savings Bank, as Chairman and Acting Treasurer, I think. At that time Mr. Blair had not been chosen to act as Treasurer of this Business Men's Committee. He was selected and agreed to act as Chairman of the Newberry Business Men's Committee some time later. I should say off hand possibly a month, it might have been six weeks, I do not recall. Before that time such disbursements as were made were made through this account I have just described. I do not remember exactly how much all told was in that account, but my impression is that it was approximately $4,000. The checks that I deposited in this account were the same as the first I described—checks to the order of Mr. Templeton and duly endorsed by him. After Mr. Blair became the treasurer of the Committee I received no further funds in connection with this campaign. In my connection with the campaign, I know of no money that was contributed in any way to the campaign by Truman H. Newberry. I never saw or heard of any contributed by him. After I had engaged Mr. Emery, and engaged these offices, Mr. Emery helped to get together the office force. It was done gradually as we needed people, as I recall it. The next employee was Miss Margaret Nevin who became my stenographer in the office. I think she started at $25 a week, which was about the average salary paid to a good stenographer in Detroit at that time. I noticed that there appeared in the office very few extra help. Miss Phelps was there as file clerk. Mr. Emery secured her services, and I think Miss Delameter was employed by Mr. Emery, and possibly other stenographers and clerical assistants. I cannot tell just the order in which they were employed but I had a letter shortly after we opened the headquarters from the respondent, Hannibal A. Hopkins, from St. Clair, stating he was very glad to know that I had taken up the work and offering to be of any assistance that he could. When I undertook this work, I made up a list of personal friends about the State as I remember, about 500 in number, and addressed a letter which

was substantially the same to each, but individually written and personally addressed, depending upon the degree of intimacy with these various friends. That was about the first thing that I did, I think, getting that letter off, and that was a task that took several days, as I remember it; I devoted considerable time and thought to it. Then, the next thing, I addressed a letter to the editors of all of the state papers, all of the weeklies and dailies, I think about 450 or 460 of them, and that was made as personal as possible, and I recall now that my letter from Mr. Hopkins was in response to one of these letters that had gone out to the editors; I think that is the way that came about. I wrote Mr. Hopkins and thanked him for his letter, and told him I would be glad to see him. I think I have known Mr. Hopkins practically ever since I have been in Michigan. He had been a newspaper man during the time that I have known him. His newspaper activities have been more or less state wide. He was the editor of the St. Clair Republican, and of the Post Master everywhere. He was postmaster at St. Clair and published this periodical that went to Postmasters all over Michigan and I think outside of the state. Mr. Hopkins came in to see me and I had a conference with him. We visited about the campaign and he said that he was available for campaign work. Making it a publicity campaign had been my idea from the start, but my notions about it had not been fully developed; they sort of grew as we went along. I think Mr. Hopkins and I discussed in a general way what could be done in the way of publicity—making Mr. Newberry acquainted with the voters of the state. As a result of that conference, I engaged Mr. Hopkins to go to work for this Committee; he was to be director of publicity, as we called it, and I arranged to give him a salary. I think it was $500 a month. He stated to me that he had received that amount in the previous National Campaign under Mr. Frank Hitchcock, and that he thought he ought to have as much in the State Campaign, with which I agreed. He started to work within a few days. I think that he had to arrange his business affairs in St. Clair, and he was also on the Draft Board in St. Clair, and he had to arrange to be relieved of that work. I think the next man that became connected with our Publicity Department was Mr. William L. Calnon, whom I have known for many years. He had been legislative correspondent at the various sessions of the legislature for various Detroit papers; I have known him possibly ten or fifteen years. I think Mr. Calnon received $75 a week. He went to work possibly the middle of April, I cannot be sure about that, but it was some little time after we had got started.

The next man that became connected with the Publicity Department was Mr. Thomas P. Phillips, whom I have known for a number of years. He had been connected with the Detroit News, I think, as you might say, the assistant to Mr. E. G. Pipp, then the Editor of the News, and I had talked with him a number of times about helping me. We had been associated in the Red Cross and Liberty Loan publicity work, and I thought that he could be of assistance here. There was some sort of a change made in the organization of the News; Mr. Phillips came over one day and said that he had severed his connection with the News and would like to accept my offer of a position. I had practically offered him a position before that. I had said that I wished he were with me and would like to have him with me, and he came over and said, "Well, I am out of a job and I would like to go to work." I said, "Well, hang up your hat and start in," and he did. I do not think there was any preliminary talk about dollars and cents before he hung up his hat. I think his salary was $100 a week. These three were the publicity men at the headquarters. Mr. James B. Haskins, the editor of the Howard City Record, was for a short time in the Detroit Headquarters, but I subsequently asked him to go to Grand Rapids and to look after the publicity in Western Michigan, which he did. His salary was $75 a week. These men that I have enumerated had charge of the details of the publicity work. I knew and was advised of its general progress. I think I personally supervised their work. I think I told them that I did not want anything to go out until I had seen it and approved it. I saw all of their advertisements and I wrote some of them. Most of them were blue penciled more or less by me, and some I wrote myself. I mean I would blue pencil their advertisements or O. K. their suggestions, or occasionally write advertisements myself. I would write them wherever I might happen to be. I remember one was written in an automobile going from Hastings to Battle Creek to catch a train, about 40 miles an hour, and finished on a big truck on the platform at Battle Creek. That advertisement was afterwards used. These advertisements were run in practically every newspaper in Michigan. There was some discussion during this campaign with respect to the use of foreign language papers. It was thought that under the conditions that perhaps it would not be advisable to take advertisements with the German papers and we did not, the conditions being that we were at that time at war with Germany. At first Mr. Emery had charge of our pay rolls and the management of the office and the office details, and then when Mr. Turner came,

he and Mr. Emery looked after the office management. Mr. Turner finished his work as Deputy United States Marshal along toward the first of June, I would not be sure, but it was some time after we had started. I had known him before very well for a number of years. I had known him as Deputy United States Marshal principally. After he came to headquarters, I had no knowledge of, or charge of, the details of the office payroll, or the salary list, or the preparing of it, or anything of that sort. In this campaign from that time on I was out in the State a great deal of the time, out in the Counties, and I would try to arrange my work so as to get back into the office Friday night, if possible, and then by working late nights, all day Saturday and Sunday, possibly Monday forenoon, I could get out again Monday noon or evening for other parts of the state.

During the progress of this campaign I went to New York and conferred there with Commander Newberry a number of times; I do not know how many; I should say possibly half a dozen times—five or six times. Sometimes I went down to get away from the grind in the campaign; sometimes when some particular state wide situation developed, I would go down and discuss that. I remember one time I went—I think it was the second time—I tried to urge Commander Newberry to make a public statement of his views upon what we conceived to be the issues in the campaign; and the conferences, or visits, were as much social as anything. I sometimes went alone; sometimes Mrs. King went with me. I think Mr. Sibley went with me most times. I cannot remember whether he did every time or not, I rather think he did. I was there with Mr. Templeton. He went down frequently to see Commander Newberry. He went to see Commander Newberry, as I recall, on business usually; I think almost without exception. They are interested in a common business—Detroit Seamless Steel. On one occasion Mr. and Mrs. Templeton, Mr. and Mrs. Roger Andrews, and Mrs. King and myself went down, and on another occasion I wanted the Commander to meet some of the people who were active in the organization, to get acquainted with them. I think Mr. Floyd was there at one time. Mr. Emery went down one time, too, when I did not go; I saw him there, I believe afterwards. I think it was after the primaries that Mr. Emery was down there. I cannot recall any others. I received a great many requests for conferences or interviews during the campaign. I tried to see as many people that wanted to see me or came to the office as I could. Sometimes I would be obliged in order to keep up correspondence to get away somewhere. Then

I used to go up to the Commander's business office on the 12th floor—the Newberry estate offices. Neither he nor John Newberry were there.

I do not know as I could say when I first saw John Newberry in my life. I saw him, I think when he was home on a furlough sometime during the campaign, and I was introduced to him. He was never in the headquarters, that I recall. Commander Newberry was not in Detroit during the campaign. I never got a letter or telegram from John Newberry. I do not know of his writing any letter or telegram to anyone connected with the organization. When I met him, he did not talk politics with me and I never talked politics with him. I think my first trip into the state was through the Upper Peninsula. At the times when I would get behind with my correspondence and would go some place to catch up with it, it was very voluminous. I do not know about how many letters I wrote of a personal nature. I wrote everybody I knew. I think I wrote, oh, I should say, possibly it might have run one hundred letters a day, I cannot say definitely.

I think Dickinson was the first county in the Upper Peninsula to which I went. We went via Chicago, and I think we arrived early one Monday morning the latter part of April at Iron Mountain. That trip lasted two weeks. There was no other county in the Upper Peninsula that I did not visit except Chippewa and Ontenagon. I passed through Chippewa but not to spend any time. We did not seek to establish or maintain any campaign in Chippewa County in the primary, and we did not get over in Ontonagon County. But we did get in Gogebic and each one of these counties in the Upper Peninsula. Mr. Sibben was with me on the trip and we spent one day, I remember the first day, in Dickinson County. I interviewed as many people in Iron Mountain as possible, I drove to Norway, interviewed friends there, drove to Loretto, a little mining town, and I met possibly 25 or 30 people during the day, and I think I left early the next morning for Crystal Fall, Iron County. I kept notes of each man that I met and talked to about Commander Newberry's candidacy in the various counties and made a note whether or not he favored the Commander's candidacy or whether he did not, or whether he was non committal, and at night after we had finished our calls, I would sit down with Mr. Sibben and we would make a list, and I sent a letter every night when we were out on the road to Commander Newberry, telling him about the people I had met, and who they were for, and I thought it was a matter of interest to him that he would like to

know about the people I saw. Then I would dictate a letter to each man that I met that day telling him that I was glad to have met him and glad he was for Commander Newberry for the Senate, or sorry he was not, and hoped he would change his mind. I kept a record of those who were against Commander Newberry just as much as for him. I wrote to everybody I interviewed, no matter whether the interviews were good, bad or indifferent. It was my custom during that trip and other trips to do that every night before I went to bed. The carbon copy of the letter written to the Commander giving the names, addresses, business and views of the men I met was sent to headquarters. When it got to headquarters, the names were taken off on cards for a card index, and they were classified according to their respective position, for or against, or non committal toward Commander Newberry. As to those that were for Commander Newberry, a form letter was written usually by Miss Nevins on Commander's personal stationery, such as I heard read here in court. And when these form letters would be prepared by the Detroit office from the carbon copy of my letter, the form letters were prepared for mailing with postage stamp and the envelope stamped; and everything was done but signing the letter and enclosing it and mailing it. These were sent to New York at intervals in quantities, that is, possibly 100 at a time, and were signed and sent out from there. That was the system of keeping track of the people in the campaign. I cannot recall what was the next trip that I took after I spent two weeks going over those upper peninsula counties, except Chippewa and Ontonagon. I think, if I recall, it was the southern tier of counties, east and west. We started from Monroe County. I do not know that we made Berrien on that trip. I think we stopped with St. Joseph, if I remember. On this trip going through the southern tier of counties, we used both the Lake Shore Railroad and an automobile, usually by rail. Where connections were not so that we could make them, we would take an automobile. Mr. Sibben was with me almost invariably. I think on this trip through the southern tier of counties, the respondent, Jim Davis, as we call him, accompanied us. There were not many other counties besides Chippewa and Ontonagon that I did not visit on behalf of Mr. Newberry's candidacy some time during this campaign. I had planned to do the thumb counties, but time prevented, and, if I recall, I did not get into Sanilac County or Huron in the thumb country, but the conditions there were favorable, so I did not attempt to make those counties. Huron County is the home of Mr. Paul Woodworth

and also of the Governor. Sanilac County is the home of Mr. Cawood. I did not get into Sanilac or Huron. I did not get into Oscoda County because it was difficult to get into it, and I did not stop at Roscommon County, which is inaccessible and a round about railroad journey or drive. I did not get into Missaukee County. I think when we were in Cadillac, which is in Wexford County, the leaders in Missaukee County came over to Cadillac. I planned on one day for each county and by hard driving, hard work, that could be done. I usually went to the principal town, generally the county seat, and would very frequently drive the county, with our leaders there, and meet as many people as I could through the course of the day, winding up at night at the starting point. They were usually weekly trips. The upper peninsula trips I think is the only one I think that took longer than that. That was two weeks. That is to say, I planned to leave Detroit early in the week and tried to get back some time Saturday. Off hand, I would say I was away on the road three quarters, probably or more, of the time during the campaign. I think I was in Flint twice.

I remember a meeting at the home of the respondent, Fred Henry, very well. The respondent Fletcher was there, also the respondent Henry and the respondent Castator. I think I met them there, as I remember. I do not think I knew at the time that Mr. Fletcher or Mr. Castator were to be there. Mr. Henry told me he was going to have a gathering at his home. Earle Johnson, former Mayor of Flint, presided at the gathering at Mr. Henry's home. Mr. McKeighan, another former Mayor of Flint, whom I had not met, was not at Mr. Henry's house. This meeting that was presided over by Mr. Johnson, was held about 7:00 or 8:00 o'clock, or something like that. I do not think I had been in Flint the day or afternoon before. I do not remember being there. I cannot state whether I went from Detroit just to attend this meeting, or whether I was in that general neighborhood. Mr. Henry's home was thrown open; there must have been 25 or 30 men there, possibly more. Mr. Newberry's candidacy was discussed at that meeting. I tried to make a speech. My speech from county to county was no form speech, though it was very similar, I imagine. The meeting at the Henry home lasted till half past nine or ten; I do not remember exactly. The gentlemen there got up at the meeting and told what they thought of Commander Newberry and his chances. Many of the speakers told what they were doing for Commander Newberry. After that meeting, when I left Mr. Henry's house, a number of us rode down town in the automobile; I think there

were four in the car, if I remember rightly—Mr. Henry, Mr. Fletcher, Mr. Castator and myself—possibly five people. On the way somebody suggested I had ought to call on Bill McKeighan, whom I had never met. I had known of him in a general way. He was not, as far as I knew, a member of the Newberry organization at that time. I do not remember who made the suggestion, but it was discussed, and Mr. Henry, I think, said that if we could get Mr. McKeighan and his friends to be for Commander Newberry, it would be pretty nearly unanimous around there. Mr. Henry said that it would be a good idea to go and see him and I agreed to do that. As we approached his drug store, Mr. Henry said, "I will get out and go into the store and see if he is there, and then if he is, I will let you know and you can come in. I just as soon there would not anybody see us going in, because if the respectable people in Flint knew that McKeighan and his crowd were supporting Newberry, we would lose the good element of the City." After Mr. Henry told me that he got out and went in. Then he came back and reported that Mr. McKeighan was there. When we went in, outside of Bill McKeighan, I think there was a clerk in the front part of the store. I do not remember any one else. Mr. McKeighan took us back of the prescription counter, and there we had a talk. I asked him myself to support the candidacy of Commander Newberry. He said he was out of politics, that he did not care to take any active part in anybody's campaign, that he was not interested in Mr. Newberry, and must therefore refuse to take any part. It was a general conversation. I should say it did not last over ten minutes; it was very brief. I think I suggested breaking it up and leaving the place, but I won't be sure about that. We were all together during the whole period of the time that we were in Bill McKeighan's drug store that night. At no time on that occasion did Dick Fletcher or anybody else say to Bill McKeighan that if he would come out for Newberry, or carry his ward or precinct or district for Newberry, that he would get the Supreme Court to reverse his case, or in substance that, or anything of that kind, or that if Bill McKeighan happened to be convicted, that Dick Fletcher would intercede with the Governor for him. Nothing of that kind at all was talked there.

I think I first came in contact with Mr. Charles Floyd in connection with this campaign during the first week in March, 1918. I had known him very well before. I called upon him at his home on a Sunday evening and asked him if he would not assist me in the conduct of the campaign as Secretary of the Commit-

tee. He was then living at Wyoming Park, which is a little suburb near Grand Rapids. I think he did not agree to become associated with me at the time, but very shortly afterwards he did, and he was given the title of Secretary. There was no arrangement made for compensation for Mr. Floyd. That is also true as to Mr. Chilson who was put in charge of the Speaker's Bureau, some time after the campaign had started; I think sometime in May. I will not be sure of the exact time. Mr. Chilson had had charge of the Speakers' Bureau for the Republican State Central Committee in previous campaigns. He was for a few days in the headquarters at Detroit, but I very shortly asked him to go to Grand Rapids and take charge of the campaign in Western Michigan, which he did. After he came to Grand Rapids and took charge of the campaign in Western Michigan, I saw him at intervals, not very often; I should think not to exceed once in every week or ten days, but I would be in touch with him by telephone. I saw him both when he came to Detroit and when I met him when I was out on these trips of mine. He was in general charge of the work in Grand Rapids.

I cannot remember just when my attention was first called to the so-called Helme candidacy. It was, I should think, some time in July. Mr. Samuel Odell first gave me the idea that Mr. Helme might be induced to run. Mr. Odell was not connected with the Newberry organization. At that time he was State Treasurer. I have known him for a good many years. He was in the House and Senate when I had various connections with those bodies—two or three terms in the House, and two in the Senate. I remember the episode of calling upon Mr. Odell at his Lansing office one day when Mr. Helme's candidacy was talked of.

Q. Give the jury your recollection of that conversation?

MR. EICHHORN: I think the conversation is not competent as between those two men at that time—purely self-serving, hearsay.

THE COURT: Of course, I would permit you to go into this conversation if Mr. Odell were still a defendant here, but he has been dismissed from the case. Any evidence thus far introduced on the part of the Government as relates to any conversation would be the Grand Jury testimony of Mr. Odell, which could apply only to Mr. Odell. He having been dismissed from the case, of course would not be binding upon anyone in this case at the present time and would have been binding upon Mr. Odell alone had he remained in the case. I think the

objection should be sustained as to any conversation, or details of a conversation. Of course, this witness would be entitled to testify as far as he has testified, and further than that as to his first knowledge or information of the campaign of Mr. Helme; but as to giving the conversations, I do not believe that it is permissible, any more than I thought the correspondence between defendants and parties who are not defendants is admissible. The objection is sustained.

MR. MURFIN: Note an exception.

THE WITNESS (continuing):

I learned that Mr. Helme's name was going to be put before the voters of the Democratic party on my return from a trip out into the State, I think it was the 28th or 29th of July; anyway, it was within a day or two after the date for the filing of the nominating petitions, which was the 27th of July. I did not know that it was to be put before the voters until the petitions were filed, that is the idea I had. The candidacy of Mr. Helme had been suggested to me first by Mr. Odell. The suggestion met with my approval. Mr. Ford was a candidate or to be a candidate. The next thing I knew about it was some time after this, I do not know how long. It might have been a week or ten days. The respondent W. J. Mickel called at my office in Detroit. He stated to me that he was not in accord with the action of the Democratic organization, the organization of his party, in the circulation of petitions to place the name of Henry Ford upon the Democratic primary ticket; that he felt it was an imposition upon his party, that he resented it, and that he thought that some action could be taken to overcome it; that as the matter then stood if there were no Democratic opposition, no other candidate on the Democratic primary ballot to contest for the Democratic nomination with Henry Ford, that it would be possible for a very comparatively small number of Democrats to go into the Democratic primary and by giving their few votes to him without opposition to place him in nomination on the Democratic ticket for Senator. That would leave, as he stated to me, the opportunity for the great mass of Democratic voters to go into the Republican primary, there being no prohibition in our primary election laws to prevent it, to go into the Republican primary, and by their votes combining with Republicans who would vote for Henry Ford, to secure for him the Republican nomination also. In that conversation Mr. Mickel said he was not in accord with the action of the State Democratic organiza-

tion; that in his judgment they had met at Lansing and had agreed to place Henry Ford in nomination if possible on the Democratic ticket and that that did not represent the great majority voters in the Democratic party. The suggestion that Mr. Helme run, which had already been made to me by Mr. Odell was discussed. I agreed with his idea that there should be Democratic opposition to Mr. Ford and he stated to me that he knew Mr. Helme very well and felt free to go to Mr. Helme and urge him to become a candidate, and he said that he would do so, and I said I was thoroughly in accord with his suggestions. During my talk with Mr. Mickel there was no conversation or suggestion that Mr. Helme should be paid for making this run. The question was never brought up or discussed at all.

At this first conference at the Statler Hotel with Mr. Templeton and Mr. Cody, I stated to them in substance that there would, of course, be some expenses in connection with the campaign. Mr. Templeton, as I remember, answered that statement or suggestion. He said that the Detroit Business Associates and friends of Commander Newberry would see that the expenses were paid. After Mr. Mickel and I had this conference about the Helme candidacy, I had nothing further to do with it. I had learned that nominating petitions were filed with his name on them, but I remember nothing about the details of that. I never had any talk with Commander Newberry on the subject of the Helme candidacy, that is, any conversation with him about it. I did have some correspondence with him about it. I remember he wrote me a letter on the subject within a few days after the announcement was made in the papers that Mr. Helme was a candidate. I have made a very thorough search for that letter, but have not been able to find it. He said, in substance, that he had seen the accounts of Mr. Helme's candidacy in the newspapers, and had noted the comment concerning it, and that he hoped that no friend of his had had anything to do with the Helme candidacy. I think I told him that I had approved of it. The files were emptied right after primary day, and the papers were dumped out and carried away.

I knew Mr. John Mangum, the chairman of the State Central Committee, very well. There was a conference between Mr. Mangum and myself as to the headquarters of the State Central Republican Committee. I went with him to look for quarters for the Republican State Central Committee. We made a very thorough canvass one afternoon just before primary day, I went with him and we went all over the down town section of Detroit, searching for headquarters for the Republican State Cen-

tral Committee. I went at his request and we visited all of the larger office buildings. The only thing that we could find that was at all suitable was in the Real Estate Exchange Building, as I remember. After this examination and investigation as to suitable office quarters, it was then determined that the State Central Committee would take over the quarters that the Newberry Senatorial Committee had had. As I have said, after that determination was made and the quarters were being made available for the Republican State Central Committee, the files of the Newberry Committee were emptied, and the papers were thrown away—thrown out. I do not remember who did it or any of the details about it. Members of the office staff in cleaning up after the primary day looked after it. That is all I know about that.

I had nothing to do with keeping the books, or keeping the accounts, or the details of that in connection with my work. As contributions to this campaign fund came in, after the first $4,000 that I have told about, in general I had nothing to do with them. The first connection I had personally with the raising of money incident to this campaign was in connection with a contribution to the campaign committee made by Colonel Frank J. Hecker of Detroit. I came in from one of my trips some time during—I think it was in July— I will not be sure about the exact time, and found on my desk among other things a memorandum made by my stenographer attached to a check which was, I found upon examination, Colonel Hecker's personal check for, as I remember, $1,000. I went over to see Colonel Hecker immediately and asked him to go out among his friends and raise some additional money for this campaign. As an incident to that, Col. Hecker and I conferred with Mr. Blair. I do not know of my own knowledge anything about what either Mr. Blair or Colonel Hecker did.

I had something to do with the preparation and making up of the Blair report. Before it was made up, I told Mr. Emery to get in all of the bills that might be outstanding against the committee, possibly ten days before the primary—to be sure to have everything in, so that we could make our report; and I also told Mr. Hopkins, our director of publicity, the same thing with regard to the newspaper advertising bills. I prepared a letter that was sent over Mr. Hopkins' signature to the various advertisers in the state requesting them to send in their bills. It was a circular letter and was followed up by telegrams. In some cases those telegrams were followed up by telephones. I cannot say who did the telephoning; it was done in the publicity offices by

my direction. I told Mr. Hopkins to be sure to have in every newspaper bill, every bill in connection with the publicity department before the time for the filing of the report. I do not recall whether or not prior to the time Mr. Blair signed it and it was filed, I had a conference or a talk with Mr. Blair about the report. I told Mr. Blair, it seems to me, at the time that he came over to sign the report, that we had made every effort to get every bill in, and so far as I knew all of the bills were in, and that I had been so advised by Mr. Hopkins and Mr. Emery. It was after I told that to Mr. Blair that he signed the report. So far as I knew, Mr. Blair had nothing to do with the preparation and making up of that report; I did. I first got in on the preparation of the report about 10:00 o'clock on the morning of September 6th. Mr. Emery had been working on it before that, and the various members of the office force had been working on it. Mr. Emery was at his home on the morning of September 6th, as I remember. Various members of the office staff, I think the most of them, assisted me on that day in the preparation and finishing up of this report. The report, or the documents in connection with it to make up the report, were in a very chaotic condition. Mr. Emery had been working for several days to get the report ready and had repeatedly assured me that it would be ready, and in fact, as I was advised by one of the respondents, when I got to the office that morning, he had worked all night the night of the 5th on the report, and had fainted away from exhaustion at four o'clock and had been taken home in a taxicab. The Blair report was, in my judgment, as nearly correct as could be made from the information we had. There was never any talk or discussion by me with any other respondent, or any respondent with me, about making anything other than an honest report. I cannot say how long after the report had been filed, printing bills and advertising bills that had not up to that time come in began to arrive. I left on a vacation trip the night of the 6th, and was gone until, I think, sometime after the 20th. I was gone about two weeks, as I remember it.

I came back to Detroit the latter part of September, and in the early part of October I had a call to New York in connection with other proceedings. I was in New York past the middle of October; I do not remember the exact date. I think I was able to spend about two weeks altogether—at different times—in assisting in the campaign on election as distinguished from the primary. After the primary the State Central Committee took over the future progress and development of the election.

I attended another meeting besides the one at Mr. Henry's

house on that same occasion. It was similar to that held in Mr. Henry's residence. I made a little talk there. I believe that meeting was held at the home of a gentleman by the name of Bottsford. We had a so-called pledge card system. I corresponded with various county clerks in the state in an effort to get a list of Republican voters in the several counties. There had been a change in the law so it was necessary to go to the county clerk's for lists of voters. The county clerks had poll lists, and I corresponded with them to get copies of the poll lists, and asked them in my letter to indicate so far as they could the political affiliation of the men on the list. It was hard to get these lists. A circular letter was prepared by me, or rather a series of circular letters. They were substantially the same and addressed to all of the voters upon those lists. There were possibly twenty different forms, and with these letters soliciting support for Commander Newberry there were enclosed blank pledge cards, they were on postal cards; these postal cards were addressed to me, as I remember, at my address Committee Headquarters in Detroit and upon the reverse side of the card from the address there was a form of pledge. These pledge cards came back in great numbers. I think before the campaign was over we had upwards of fifty thousand of them, and when they came in they were classified by counties and alphabetically in the office files and kept for a mailing list. These lists were later used to address letters during the progress of the campaign. I cannot state the exact date when I first became identified with the campaign, but it was approximately the first of March.

The group of papers marked Defendants' Exhibits Nos. 51 to 51-FF, both inclusive, now shown me, is the exchange of telegrams and letters, correspondence, between Commander Newberry and myself for the month of March, 1918.

So far as I know, that is all of the correspondence by letter and telegram during that time.

Certain other letters and telegrams were here marked Defendants' Exhibits 51 to 51-FF, being correspondence between the witness and the defendant Truman H. Newberry for the month of March; 52 to 52-Q for the month of April; 53 to 53-II for the month of May; 54 to 54-MMM for the month of June; 55 to 55-XXX for the month of July; and 56 to 56-AAAA for the month of August, and were offered in evidence by Mr. Murfin.

THE COURT withheld its ruling as to the admissibility of the papers until an examination of the same had been made by counsel for the Government.

THE WITNESS (continuing): The headquarters were upon the third floor of the Ford Building. Later, after the opening of the campaign, some weeks, we needed additional room, and there were rooms secured on the fourth floor. Those fourth floor rooms were used for the storing of the literature, and from those rooms the literature was secured that was sent out to the counties. It was the storing and mailing quarters. That is the place where we stored our forms and literature and from which we mailed out our literature, as distinguished from our letters and correspondence.

After the Blair report was filed, additional bills from various newspapers came in for payment. I think it was on my return from my vacation trip which lasted about two weeks, that I first knew about these bills; I will not be certain, but I think Mr. Floyd called my attention to them. We did not get to pay them until after the election. I conferred with Mr. Blair and Mr. Templeton and Mr. Andrew Green incident to the payment of these bills; it seems to me there were others, but those are all that I can recall at this time. I do not recall whether or not Mr. John Mangum was present. I do not think he was; he may have been. I now recall that Mr. H. E. Bodman was present. As a result of that conference, an arrangement was made to pay these bills. I had nothing to do with the details of that arrangement or any personal knowledge on the subject.

I met Commander Newberry at Williamstown, Massachusetts, about the 15th of September. I went from Quebec to meet him. I was on my vacation trip which was a trip down the St. Lawrence River, and Mrs. King and myself had reached Quebec, when I received a long distance telephone call from Detroit from Mr. Mark T. McKee, as a result of which I cancelled the rest of my trip and advised Commander Newberry. I finally reached him at Williamstown, where he was stopping for the night; he was on an automobile trip from New York. I reached Williamstown about 1:30 in the morning and spent the next day with Commander Newberry. I do not recall that we discussed anything in connection with this case.

James F. McGregor became connected with the campaign very early in the campaign, I should say within the first month or six weeks, through me. I have known Mr. McGregor for a great many years. I had a conference with him with respect to his undertaking work in the campaign. I met him on the street one day and asked him if he could not assist me in the campaign. Afterwards I told him where and how I wanted him to assist me. That was at headquarters. I told him that I

would like very much to have his assistance as one of the assistant secretaries and one of the field men of our organization, and that I would like him to take charge of the Upper Peninsula counties if he would. An arrangement was then made that he would take charge of those counties, and I think we agreed that his compensation should be $75 a week. I think Mr. James R. Davis was the first field man whom I engaged. I had known him possibly ten years. I met him, I think, at Lansing on the occasion that I talked with him. I asked him if he were available for work in the senatorial campaign. He was then employed in one of the state departments. He said that he thought that he could obtain a leave of absence from his work there, and if he could, he would be glad to assist me. Subsequently, it developed that he secured his leave of absence and became connected with our committee. I made the same arrangement with him as with Mr. McGregor as to a basis for compensation for his time.

The instructions which I gave these assistant secretaries were in substance these: That I would like to have them visit the several counties in the territory assigned to them to confer with active Republicans in those counties and to secure their assistance in developing and perfecting an organization in each of these counties; that they were to report to me daily as to the progress that they were making, the men that they saw and interviewed, the attitude of those men toward the candidacy of Commander Newberry, and also to secure in each county, if possible, one or two of the leading Republicans who would become responsible for the campaign in their individual counties; and to make their recommendations to me just as soon as possible. I called their attention to the provisions of the Michigan Primary Election Law and the restrictions therein contained and enjoined upon them a strict observance in every way of the law. I had a copy of the law in my office at all times. I had made a study of the law upon a previous occasion. I was very familiar with the law. I was not at any time promoted or actuated by any evil intent in anything I did. I engaged the respondent, John M. Harris. I had known Judge Harris a number of years. I think I had my conference with him that resulted in his becoming connected with this campaign, at headquarters. My conference with him and my talk and instructions were substantially as I have just told you. I do not recall that in that talk Judge Harris enquired where the funds were coming from with which to finance this campaign, but I do know that I always stated to the field men that they might state to anyone who be-

came responsible for the campaign in any county that the legitimate expenses in the campaign would be paid by the committee, and that funds would be provided by the friends of Commander Newberry for the purpose. I made arrangements for work with Mr. Roman Glocheski, the respondent. I asked him to come to Detroit to see me. I think it must have been in the month of May, I am not really sure about that, but about that time. I told him that I wanted a representative Polish citizen to visit the Polish communities of the state, chiefly about Grand Rapids, in Manistee, Detroit, and also, I think, in Presque Isle County, to arrange to secure, if possible public meetings of Polish citizens at which he might make a presentation of Commander Newberry's qualifications for the Senate. I asked him also if he would take a sketch of Commander Newberry's life which he had in headquarters and have it translated into the Polish language, and printed for distribution among Polish voters and those things he did. At that time I made an arrangement with Mr. Glocheski on the subject of compensation. As I recall it was for a monthly salary of $150 and his expenses. I did not tell him that there would be $20,000 available for work among the Polish people. There was never any statement of that kind whatever. There was no pile of money on my desk while he was in my office. There never was a pile of money on my desk. I think there were six so-called field men: Mr. James F. McGregor, who had charge of the Upper Peninsular counties; Mr. James R. Davis, who had charge of the southern tier of counties east and west from Monroe to Cass, inclusive; Mr. Rolla E. Prescott, who had charge of four counties in northeastern Michigan; Mr. Ben F. Reed, who had charge of the northeastern counties generally, excluding those four that Mr. Prescott had; Judge John M. Harris, who had charge of the northwestern counties in the Grand Traverse region; and Mr. Terry Corliss, who had charge of the thumb counties. Captain Tufts was not exactly in the same position as these field men. These field men, I might state, were almost exclusively for political organization work; that is, it was their duty to visit the political leaders in the several counties and to perfect the organization in their respective territories. Captain Tufts was in a different category, so to speak; he was to visit certain classes of citizens. He was assigned to interest the marine men, the life saving crews, and the fishermen along the lake shores in the campaign. He did, however, I might state, in the opening part of his work do a little organization work in the northern counties of the Lower Peninsula. As I recall, that was only a matter of two

weeks before I asked him to take charge of this other work. The respondent, B. F. Reed, was taken ill, I think. It must have been about the middle of the campaign, as nearly as I can remember, and was obliged to go to a hospital. My impression is now that he did not get back into the real active work in the campaign again. During my talk with Mr. Glocheski with respect to his getting the Polish voters interested in the campaign, I did not promise him any job for his work or an additional compensation of $2,500 if we won. I did not promise anybody at any time any job in connection with this campaign. I think Judge Covert and Senator Seeley became connected with this campaign in the month of July. Mr. Chilson reported to me that they had become connected with it. Their names were in the list of County Committee people, of which a photographic copy is in evidence (Exhibit 38). I might state in connection with that list that it was a tentative list which was kept in our office for use in connection with the perfecting of the organization. The beginning of the list was four or five sheets of paper, I have forgotten which, on the left hand side a list of the counties in alphabetical order; upon the right hand side of these several sheets were blanks for Chairman, Secretary; Chairman, Secretary and so on down through the counties, and as fast as we—we first entered upon these sheets, or I did, the names of men in the several counties that we would like to secure—that I would like to secure, if possible, for the positions of Chairman and Secretary, and it was tentative until the acceptances were received. For the County of Oakland, I think I had the names of Judge Covert and ex-Senator Seeley as prospective Chairman and Secretary. They were not actually, however, connected with the campaign until some weeks after the retirement of ex-governor Warner as a candidate. I think Mr. Ford formally announced his candidacy on the 14th of June. Governor Warner announced his withdrawal within the next few days. I think he announced his entrance a short time prior to that—a matter of a week or ten days.

I remember receiving the letter of which the paper now shown me, marked Defendants' Exhibit No. 57, is a carbon copy, and its enclosure marked Defendants' Exhibit No. 57-A, and of sending the original telegram attached, of which the paper marked Defendants' Exhibit No. 57-B is a carbon copy. I think the letter is the first one I ever received from Commander Newberry in this campaign.

Defendants' Exhibit 57-B refreshes my recollection. The subject referred to was the attitude of the Detroit News. I had

conferred with Mr. Miller concerning the attitude of the Detroit News towards Commander Newberry's candidacy. I did not know at the time I sent that telegram of any other correspondence Commander Newberry had had with Mr. Miller except the letter he enclosed to me in Exhibit 57. I did not know about that until afterwards. The "Fred" referred to in this telegram was Mr. Fred Smith, and the details that I gave to him personally referred to Commander Newberry's ownership of certain shares of stock in the Detroit Times. The fact that he was one of the stockholders of the Detroit Times was the bone of contention, so to speak, and that is what the telegram referred to. Defendants' Exhibit 51 is a telegram I received from Commander Newberry about the date it purports to bear.

The paper referred to was offered and received in evidence and read to the jury as follows:

DEFENDANTS' EXHIBIT No. 51

Paul H. King, March 1, 1918.
110 Fort Street West,
Detroit, Mich.

Charlie Nichols wires Senator Smith has just announced he will not be a candidate for re-election. Thought you would like to have this information. Do not use my name in connection herewith.

Truman H. Newberry."

Certain other papers marked Defendants' Exhibits Nos. 51-K, 51-L, 51-M and 51-O were here offered and received in evidence and read to the jury as follows:

DEFENDANT'S EXHIBIT 51-K

March 7, 1918.

Personal.

My dear Mr. King:

I have your letter of March 5th with the enclosures and just as soon as I can get some note-size stationery, I will write a line to the gentlemen whose correspondence you enclosed.

If not too much trouble I should be glad to have a letter from you as often as you find time and inclination to write, and I hope you will be able to come down occasionally to go over matters in general or one thing in particular that needs immediate action.

I am considerably puzzled over George Miller's ref-

reference to my letter as "a very strange letter." I wonder what was strange about it as it seemed to me a very normal letter. I would appreciate your frank criticism of the letter or interpretation of what Miller thought "strange" in it.

You did not enclose the editorial which you referred to but I think I have read it and George Miller knows perfectly well that in general I agree with his view on this subject. I enclose for your information a copy of a letter I wrote George some time ago which bears on this particular matter.

Sooner or later the subject of my friends' political activity will arise in connection with my Naval service, and I cannot foresee what the Secretary will say on the subject but as long as I do not take any active part or make any public statement, I cannot imagine that anything serious would occur prior to a definite nomination. When I hear anything from Washington on this subject, I will endeavor to see the Secretary himself and explain to him the situation as I see it and get his orders on the subject.

When the Mayor was here on Sunday, Mr. Clippert who was with him, suggested the desirability of using the motion picture business as a very satisfactory method of publicity, and I am heartily in favor of it, if it can be done without trying to make capital out of my Naval service. I would not want any pictures of me in connection with any Navy Yard or ship, or Government office, as it would certainly provoke unfavorable criticism and be decidedly objectionable to the Navy Department. I know several people here prominently identified with this particular business, and if you think it desirable to follow up sooner or later, I can put you in touch with the people who are in control of the distribution of all films.
Information and I hope as I said before that you will quickly get in touch with the writers.

I enclose a copy of part of a letter bearing on John A. Russell, which is of course confidential.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.
Enclosures (2)

DEFENDANT'S EXHIBIT No. 51-L.

Volunteer Committee,

Truman H. Newberry.

For Republican Nomination for United States Senat

310 Ford Building

Detroit

A. A. Templeton,
General Chairman.

Paul H. King,
Chairman Executive Committee.

March 7th, 1918.

Dear Mr. Newberry:

This has been another busy day. I have secured th services of Mr. Charles A. Floyd, a former business a sociate in Grand Rapids, an A No. 1 young man, we acquainted throughout the state and very popular i handling the work of field secretary. I am sending hi out in the state tonight and he will confer with leade in Ottawa county tomorrow, Ionia County Friday, Ke County Saturday and Sunday, reporting here Monday. think we are very fortunate in getting him, as he is ju the type of young man we need. He has had to mak some sacrifice in a business way, but the people wit whom he is connected, were good enough to let us hav him for the campaign.

I have also dispatched a man to go to the largest citi of the state and talk with the labor people. My idea to form, this month, in each county, the nucleus of Newberry Committee. These people will be asked t circulate the petitions next month and we will use th names of signers as new members of our organizatio I want to get thorough township and ward organiz tions in each county; before we get through I am sure w will get them.

I find that the clipping was inadvertently omitte from my letter last evening and am enclosing it her with. Please pardon the oversight.

Sincerely yours,

PHK-N. Paul H. King.

DEFENDANTS EXHIBIT No. 51-M

(Same letter head as above)

March 8th, 1918.

My dear Mr. Newberry:

I have had a long talk with Milton Oakman today and he has decided to go to New York, leaving here tomorrow (Saturday) evening, on the Detroiter, to discuss with you another situation which has just arisen. George Scott has decided to run for Congress against Charlie Nichols. Both are, of course, our good friends, and we are hoping that there may be some way to avoid a conflict. Judge Murfin is also going to New York for the week end and both will be at the Belmont. I trust that it may be convenient for you to get in touch with them Sunday morning. The Judge is going on the same train, and both know about the other's trip, so there will be no embarassment. Milton tells me that Judge Murfin is with us, for which I am very glad.

George Marston, of Bay City, dropped in today to tell me that he will do everything he possibly can and that he will write you.

We are getting things going in pretty good shape. I am sending a personal letter to the editor of every newspaper in the state, each individually written. There are over five hundred of them and these will go out Sunday night. I am going to Cleveland tonight for the purpose of talking with the man who successfully managed Herrick's campaign for the senatorial nomination, under conditions very similar to ours, and I think I will be able to pick up some pointers.

The petitions are ready and we are beginning to get them out. I am enclosing one for your information.

Now that the Charter Commission has completed its work, I am relieved of a great burden and freer for the campaign. Trying to do both during the last two weeks has been somewhat strenuous. Although a little tired, I am feeling fine. There are about a thousand things to be done, all at once, but with plenty of help we will get them all in shape.

With kind personal regards, I remain

Sincerely yours,

Paul H. King.

PHK-N.

DEFENDANT'S EXHIBIT 51-O

March 8, 1918.

My dear Mr. King:

I have your letters of March 7th and 8th, and am glad to know that you have secured in Mr. Floyd a man whose qualifications are exactly what you require for the work to be done.

Your plan of sending a man out in the State is excellent and I should hope to hear some good reports from his work.

You will be interested to know, if I have not already told you, that I had luncheon the other day with Mr. John Mitchell, whom you may recall as being very close to Mr. Samuel Gompers. I think later he may communicate with some of his labor associates in Detroit, or he may be out there on some other business.

In regard to the clipping from the "News" there is much of it that I concur in and some other parts of it that I shall have to hear George Miller explain before I was able to fully understand what he was trying to say.

Replying to your letter of the 8th concerning Mr. Warren, you will be interested to know that he wrote me suggesting that he would be here on the 17th when, of course, we will talk over the situation very frankly. I do not believe it would be advisable for me to write him directly on this subject and I have no doubt that the proof of the publicity campaign which you enclosed is definite notice of his Senatorial intention. Regardless of what Mr. Warren's decision in the matter is I shall hope and expect my friends to continue their work in my behalf until after the primary polls have closed. Under no circumstances that I can foresee would I retire in Mr. Warren's favor, so please strongly express to any inquiring friends what I have said above.

I have not wired you because I can make no suggestions and only hope that you can locate the man, or men, upon whom Mr. Warren relies on for advice as to any favorable outcome as to his candidacy, for it is with those men that you must confer and hope to persuade to our point of view.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Mich.

THE WITNESS:

The Mr. Warren referred to was Col. Charles B. Warren, who was at that time in the Provost-Marshall General's office. He is a lawyer in Detroit. I remember receiving a letter of which Defendant's Exhibit 51-p is a carbon copy about that date.

The paper referred to was here offered and received in evidence and read to the jury as follows:

DEFENDANT'S EXHIBIT No. 51-P

CONFIDENTIAL March 13, 1918.

My dear Mr. King:

When Oakman was here the other day, I mentioned a luncheon I had with Mr. John Mitchell, who you may recall is very well known in labor circles, having been head of the Miner's Organization at the time of the great strike. He is also one of the constant advisers of Mr. Gompers.

I am enclosing herewith a copy of a letter received from him this morning, so that you may keep the matter in mind in case he came to Detroit, as he thought he might have to do before very long.

I shall probably see him again or at least communicate with him so that when he goes out there you will be able to make any suggestions to him that you think would be helpful.

Yours sincerely,

Truman H. Newberry.

Mr. Paul H. King,
Room 310 Ford Building,
Detroit, Mich.

THE WITNESS:

Referring to Defendant's Exhibit 51-s, I remember receiving a telegram of which that is a copy.

The paper referred to was offered and received in evidence and read to the jury as follows:

DEFENDANT'S EXHIBIT 51-s

"March 19, 1918.

Paul H. King,
310 Ford Building,
Detroit, Michigan.

"Wire if you wish me to reserve rooms Sunday for your party. How many and where.

Truman H. Newberry."

THE WITNESS:

Defendant's Exhibit 51-t is my reply to that wire.

The paper referred to was offered and received in evidence and read to the jury as follows:

DEFENDANT'S EXHIBIT No. 51-T

"March 19, PM 6:11

Truman H. Newberry, Detroit, Mich. 4:38 19
280 Broadway,
New York City, NY

Messrs. King Templeton & Andrews accompanied by their wives. Kindly reserve at Biltmore.

Paul H. King."

THE WITNESS:

Referring to Defendant's Exhibit 51-U, I recall writing that letter to the Commander about the date it bears.

The paper referred to was offered and received in evidence and read to the jury as follows:

DEFENDANT'S EXHIBIT 51-U

March 19, 1918.

My dear Mr. Newberry:

Things have been moving so fast here that I have not had an opportunity to write you as frequently as I desire. Mr. Templeton has, however, been keeping you posted and I trust that you will consider a letter from either of us as one from the other.

I have held your letter concerning the matter of suffrage possibly longer than I should. I have been giving it careful thought; and unless there is necessity for immediate reply, I would like to talk this over with you Sunday, in connection with your platform, or public statement. It might be of interest to know that the following statement appears in Mr. Osborn's announcement:

"I believe in, have advocated for years and will support all efforts toward securing the full suffrage for the women of America."

I am glad that you are in favor of suffrage, because I think it is something which is not only right and just, but which I hope will be adopted in Michigan. There will be a state suffrage convention in Detroit the latter part of this month and if you think well of the idea, it

might be wise to send a message to the convention. We can talk about this at our conference.

With regard to the use of the letterhead in writing you, we will be glad to comply with your request and use only the stationery without the cut in our letters to you.

If you will pardon the suggestion, I think that the use of your noteheads containing only the New York address would be a mistake. My thought is based on the idea that you live in Michigan and are only temporarily in New York. The New York address alone, gives the other notion that you are established in a distant city and are, therefore, not so closely in touch with Michigan. I will be glad to discuss this with you further when I see you.

I expected to be in Farmington tonight, visiting with Ex-Governor Warner, but on calling him on the phone, I find that he has not yet returned from a trip that he told me he was going to take, when I saw him in Flint the other evening. I will let you know just as soon as I have had a conference with him.

I have thought that Mr. Larned might be a candidate. It does not seem possible, however, that he could hope to be successful at this late date.

Mr. Hopkins is a distinct acquisition. He knows the editors of the state papers so well and stands so highly with them, that anything he may send out cannot help receive more than ordinary attention. He is such a whole-souled fellow, so anxious to do anything he can, whether in his line or not, at any time, day or night, that I think we were most fortunate to get him.

Concerning your inquiry about the papers, the News is, thus far, non-committal. It has come to me that they feel, inasmuch as you have not made a public statement, they do not know what your attitude is on any pending questions. This we can remedy soon, of course.

The Journal people tell me, very frankly, that they are for Osborn. This is due to the fact that Mr. Wright, one of the owners of the paper, is a great admirer of Mr. Roosevelt and has the impression that his support will be with Mr. Osborn. Anything that you can do to correct this will be helpful.

The impression seems to prevail that the Free Press

will be with us, although I have no direct information in fact, I have not tried to ascertain their attitude, because I undestood that you were handling the matter.

I cannot advise writing Mr. Miller along the lines you suggest. Suppose we make this a point for discussion Sunday, also?

I am enclosing some editorials from yesterday's Free Press and Journal, in which you may be interested; also a circular letter which Mr. Hopkins is sending out today together with a short news article for the country papers. Each paper is being sent one of your cuts. As requested I am sending you also a letter similar to those which went to the editors. Each was separately written and individually signed. Wherever there were any personal references which I could make I included them, so as to give the personal touch.

I am looking forward to seeing you Sunday.

Sincerely yours,

Paul H. King.

THE WITNESS: That is the respondent, Hannibal A. Hopkins. The Commander and I went over and discussed the proposed declaration of principles when I got to New York, and it was reduced to writing. The paper now shown me marked Def. Ex. 58 is the proposed statement of principles that I suggested to Commander Newberry. It was never given out. The Commander and I discussed the question of giving it out.

Q. What was the reason for not giving it out, if it developed during that discussion?

MR. DAILEY: We object, your Honor. It certainly would not be a matter of defense.

THE COURT: I am inclined to think that is so.

MR. MURFIN: I offer it in evidence for whatever it may be worth.

MR. DAILEY: The Government objects.

THE COURT: I will sustain the objection.

MR. MURFIN: Exception.

Mr. Murfin here offered in evidence on behalf of the defendants the following papers marked Defendant's Exhibits Nos. 51-V, 51-X, 51-Y and 51-Z which were received and read in evidence as follows:

DEFENDANT'S EXHIBIT 51-V

VOLUNTEER COMMITTEE

TRUMAN H. NEWBERRY.

For Republican Nomination for United States Senator.

310 Ford Building,
Detroit.

A. A. Templeton,
General Chairman.

Paul H. King,
Chairman Executive Committee.

March 21st, 1918.

My dear Mr. Newberry:

Everything is coming along nicely. I made my railroad talk in Jackson night before last and got away with it in fairly good shape—at least my friends were kind enough to say that it was good. After the meeting I talked with party leaders until a late hour and then dispatched a bunch of letters which I brought with me from the office to sign and mail.

Yesterday I spent in Lansing. I have enlisted the services of Supt. Clarence E. Holmes, of the Michigan School for the Blind. He is an able man, of excellent standing and a hustler. He is anxious to become active right away. He feels as a matter of duty, however, to consult his Board, which has its next meeting a week from tomorrow. I do not think there is any doubt about his being with us. If he is we may depend upon good results from Ingham County.

I visited around the Capitol yesterday afternoon with good effect. Sentiment is fine. Charles S. Pierce, Clerk of the House of Representatives, one of the best friends I have, gave me the only unhappy moment I experienced there. He is a lifelong friend of Ex-Governor Warner. I have not yet had an opportunity to confer with the Ex-Governor, although I have tried faithfully. Possibly he does not wish to talk to me. Mr. Pierce gave me to understand that Mr. Warner will be a candidate. I tried my best to show him that this could only give aid and comfort to the enemy, but he intimated that Mr. Warner could make such a showing that we would withdraw. I told him we were not built that way and were into the finish.

I have a feeling that while Mr. Warner will undoubt-

edly be a candidate, he will after a time discover that he cannot muster sufficient strength to win and will withdraw. Of course, it is possible that he may not enter. He is busily engaged in sounding out sentiment and would, of course, have some following, particularly among the farmers of the state. I am not afraid, however, and we will just go right along and perfect our organization, tying up as many Warner men for second choice as possible.

In the Attorney General's office, where I was not sure of my reception, I was treated most cordially. Mr. Groesbeck was out, but Mr. Dougherty, his deputy, a long time personal friend, was just as cordial as ever, introducing me about the office and giving me suggestions about people in his part of the state.

The chief concern among a number of people whom I met seemed to be whether you would stay through the campaign. I told them it was my idea that this is a finish fight and such is my earnest recommendation.

I am enclosing herewith an editorial from the Jackson Citizen Press, which is one of the Booth papers in the state. I saw Mr. George, the editor, in Jackson and expressed my appreciation. Upon my return I wrote him, thanking him in your behalf.

I am enclosing also a copy of Mr. Osborn's platform, which I will be glad if you would look over between now and Sunday. I would suggest, if you have not already done so, that you read through the platform of the British Labor Party, (New Republic Magazine, on or about Feb. 18th.) Not that it is something that should be adopted either in whole or in part; but it is, as I think you will agree, a most interesting exposition of the undercurrent in public sentiment today. It may give us some ideas. George Miller called my attention to it sometime ago as food for thought.

I do not know that it is necessary to put out a platform so-called—at least all at one time. The thought had occurred to me that it might be well to discuss some public question at one time and another question at another time. This would give our Publicity Department something to talk about and help keep up the interest. I will try to outline the kind of a platform I would adopt if I were a candidate, which possibly may be of some use, at least by way of suggestion.

Mr. Templeton is going ahead with splendid work among the business men, who will be a big factor in this campaign. The more that this influence can be brought to bear, the better. It is so far-reaching and effective.

Sincerely yours,

PHK-N. Paul H. King.

DEFENDANT'S EXHIBIT 51-X

March 22,18

Detroit, Mich. 358P 22
Truman H. Newberry
280 Broadway New York NY
Kindly make reservations for Messrs. King and Templeton and wives and one extra lower berth to Detroit leaving New York on Wolverine Monday night.

Paul King.

DEFENDANT'S EXHIBIT 51-Y

March 22,

T. H. Newberry
280 Broadway New York NY
Advise if reservations for six were made at Biltmore my wire of 20th

Paul H. King.

DEFENDANT'S EXHIBIT 51-Z

March 22, 1918.

Paul H. King,
310 Ford Building, Detroit, Michigan.
Three doublt rooms and three baths were reserved for your party Sunday morning at Biltmore.

Truman H. Newberry.
(Charge to account of Truman H. Newberry)

THE WITNESS:

Defendant's Exhibit 51-AA is a letter I wrote to Commander Newberry.

THE COURT: I meant to rule this morning, I thought I did, so far as the original letters that bear the signature of Mr.King, it would not be necessary to further identify them.

Mr.Murfin then offered in evidence the following papers, marked as indicated below, and the same were received in evidence and read to the jury as follows:

Defendant's Exhibit 51-AA

March 26th, 1918.

Hon. Truman H.Newberry,
280 Broadway, New York City.
My dear Mr. Newberry:

On my return home this morning I find I brought away with me the letter from Mrs. Brotherton and Roger Andrew's Upper Peninsula paragraph for the platform. You will probably wish to have both of these there, and I return them to you.

Our friends here are much disturbed over the proposed prohibition plank and do not feel that they could hope to win out on such a declaration, and I have asked them to make a recommendation and will be glad to forward it for your consideration.

We certainly had a fine trip, and I was glad of the opportunity to have such a good visit with you. Everything is apparently going well, and there is lots of work to do.

Please send me as soon as you can a photograph in citizen's clothes. I have an urgent request for it from the Grand Rapids Press and would like to comply with it as soon as possible.

With kind personal regards, I remain,

Sincerely yours,

Paul H. King.

Defendant's Exhibit 51-CC.

March 28, 1918

My dear Mr. King:

Your letter of the 26th with enclosures received.

I am enclosing herewith a letter which you can mail to the Michigan Equal Suffrage Association if it reads all right. I think I said enough in the telegram which I sent to Mrs.Wilbur Brotherton in reply to her inquiry, copy of which is attached.

Regarding prohibition: I have no doubt but that it will upset the old "saloon gang" and some politicians of a much higher type, but I am so convinced that I will express my views very plainly on this subject as I hope I can on every other subject. I have no desire to be elected to anything with anybody in doubt as to what I really think, and I think very strongly on the question of prohibition.

I enjoyed your visit quite as much as you did and I am thankful that you all came when you did. I am only sorry I did not have an opportunity to meet Mrs. King and the ladies. Mrs.Newberry was most enthusiastic over the luncheon and I hope Mrs.King enjoyed everything as much as my wife did.

In regard to a photo, I wish you would ask Mr.Smith for one. The only picture I had in citizen's clothes to my recollection was one that was taken when I was a great deal heavier. If the photo is too large for publication, it can be reduced in size.

I am enclosing a copy of a letter from Mr.Jewett and my reply. I wish you would telephone him when you get a chance.

Very truly yours,
Truman H.Newberry.

Mr.Paul King
310 Ford Building,
Detroit, Mich.

Defendant's Exhibit No. 51-EE.

March 30, P.M. 1918.

Truman H.Newberry, Care Hotel Gotham, New York, N.Y.

Liberty Loan Committee anxious to have you subscribe for page Liberty Loan ad during coming campaign Glad to recommend it but it should come from you personally of course matter will be closed Monday morning Will appreciate it if you will wire Mr. Smith to arrange Everything going well

Paul H. King.

Defendant's Exhibit No. 51-FF.

PRIVATE March 30, 1918

Dear Mr. King and Mr.Templeton:

This morning a high official of the Cleveland Cliffs Company called me on the telephone from Cleveland, and requested that I not use his name, so I must ask you not even to guess at it, but to know that I have every confidence in the gentleman and that his advice is worthy of our careful and immediate consideration. As nearly as I can recall it, his part of the conversation was as follows:

"I have just had a full report from the Northern Pen-

insula and am surprised to find the strong sentiment in favor of your nomination. I have never known the Northern Peninsula to be so unanimous on any one candidacy before. I was surprised because your strength was unexpected, but we are all delighted and every one will do their utmost to secure your success. I want to strongly advise, however, that you write personal letters as soon as possible to Mr.McNaughton and Mr.Duncan, who control the mine situation. They desire to act in your interests, but the mining people are very peculiar and I hope that Mr.Andrews will not be named to handle the mining situation, as these gentlemen resent outside interference. I know Mr. Andrews has done excellent work in your interests and his assistance is of the highest value. Please tell this to Mr.Paul King for whom I have a very high opinion, and I congratulate you on having him interested with you. If you will communicate with McN. and D. along these lines, I am sure it would work out greatly to your advantage and insure a remarkably successful result in the Northern Peninsula. I will keep you in touch with the situation and call you on the telephone when I hear anything that will assist your campaign. I prefer to do that rather than write letters."

I am writing Mr.McNaughton and Mr.Duncan as he suggests, but before saying anything to Mr.Roger Andrews I would like to have the advice of Mr.Templeton and yourself as to whether you and Mr.Templeton should handle this matter or leave it to my amateur efforts. Personally, I think you can do it better and I hope you will reach the same conclusion.

Sincerely yours,

Mr.Paul H. King, Detroit, Mich. — Truman H. Newberry

Defendants' Exhibit No. 52-A.

April 1st, 1918.

My dear Commander:

I am inclosing herewith clippings from tonight's papers, which may be of interest. I am not able to say how much truth there is in the story that Mr.Couzens will be a candidate. Some of his friends are doubtlessly

egging him on and it may be that he will declare himself. Of course, I do not like the idea of another candidate from Detroit, but so far as the actual opposition is concerned I am not very much afraid of it.

I have heard nothing more from Mr. Warner and am looking for his announcement after the Liberty Loan drive. How long Mr.Couzens and Mr.Warner might stay in the race is problematical. We think that before they get very far along they will conclude that we have gotten such a start that they may not stick.

I have your letters and am glad to know about the situation in the Upper Peninsula. I see no objection to discussing it frankly with Roger and know that he will take anything in good part that means strengthening our position. I will be glad to handle it with him if you desire. I will, of course, not write to the gentlemen named until after I hear from you.

I hesitate to make any suggestion as to the amount of the contribution to the church in Augusta. I think the reply to your letter will doubtless give you an idea of what is the right thing to do.

The good reports bother me fully as much as they do you and I am out looking for trouble. We will probably have our bumps before we get through with the campaign and the fact that everything is going well is only a spur to greater activity.

Allan is ill with the grippe and probably will not be so that he can write you for a day or two.

Sincerely yours,

Paul.

Defendant's Exhibit 52-C.

(Night Letter)

April 2, 1918.

Paul H. King, 310 Ford Building, Detroit, Mich.

Please have your stenographer be careful to use envelopes that fit the letter paper he uses when sending personal letters for my signature. The last lot of stamped envelopes are entirely useless.

Truman H. Newberry.

(Prepaid. Charge to Truman H. Newberry.)

Defendant's Exhibit 52-D.

April 2, 1918.

Dear Mr. King:

I notice in the last batch of correspondence sent m for signature, the envelopes were too small to proper receive the letterhead, which made it necessary to wri new envelopes, take the stamps off the old ones, et Will you please instruct the stenographers to be mo careful about this in the future.

Sincerely yours,

Truman H. Newberry.

Mr.Paul H. King,
No.310 Ford Building,
Detroit, Mich.

Defendant's Exhibit No. 52-E

(Night letter)

1918, April 2.

Detroit, Mich. 2.
Lt. Com. Truman H. Newberry
Hotel Gotham, New York, N.Y.

One of my personal friends Henry H.Tinkham Grat Rapids newspaper man is coming to New York on oth business leaving here Thursday evening next. Wou appreciate it if you could give him a little time while h is there as I want him to write some character sketch for publicity purposes. Please wire me whether th can be arranged and what time or times you could s him.

Paul H. King.

Defendant's Exhibit No. 52-F.

(Telegram)

April 3, 1918.

Paul H. King,
310 Ford Building,
Detroit, Michigan.

Ask Mr. Tinkham to lunch with me Friday twelve thir and to telephone me when he arrives.

Truman H. Newberry.

(Prepay and charge to Truman H. Newberry).

April 4, 1918.

My dear Paul:

Defendant's Exhibit 52-G.

I am going to hope that our friendship has reached a point where we can discontinue the formal word "Mister" and that you will let me call you by your first name, as I hope you will address me hereafter and this also goes for Allan Templeton, with his consent.

Your letter of the 1st reached me last night and I am entirely in accord with your view of Mr. Counzens candidacy, believing as Mr. Stair told me, that the politicians would try to force him out of his present place and then give him the worst double crossing that any man ever got. The question of Mr. Warner's candidacy or of any one else besides Osborn, is, of course, of the highest importance, but I cannot avoid the thought that the main idea in the minds of many influential people and papers like the Free Press and the News, is anything to beat Osborn, and when you have impressed these papers and the public with the certain knowledge that I will continue in the race to a finish, they will then have to decide whether they can beat Mr. Osborn better by urging another candidate to enter beside myself, or whether their best opportunity to beat Osborn would be to concentrate and co-operate with all the most satisfactory publicity that you have already given to me. It seems most probable from what I hear and from what you must know, that you have already covered so much ground, that any investigation by those who want to back some one beside myself will certainly show that a division of the opposition to Osborn will certainly result in his election. At the present writing I feel that you have secured for my candidacy what might be described as the inside track for the nomination.

In regard to the Upper Peninsula. I am hoping that you will frankly discuss the matter with Roger Andrews, and in order to make it easier for him to understand it, you might state that you, yourself, were going to leave the mining people to handle their own situation without advice or suggestion from any one outside, because of the reasons stated in my last letter. This I know would be what Mr. McNaughton and Mr. Duncan desire to do.

I am inclosing herewith a copy of my letter to Mr. Roosevelt and his original reply, which I hope you will return after keeping a copy. You must see the original to appreciate the words written in long hand, which are so characteristic of the man himself. His brother-in-law, Douglas Robinson, came to see me yesterday and told me, what I have always known, of the Colonel's intense friendly interest, and of his extreme regret that he had ever stated that he would not take any part in the Michigan contest. You will note in his letter an intimation that I had asked him do something, but as a matter of fact, I did not ask him and in fact stated to him that I did not want him to take any active part on my behalf, but would rely entirely upon the fact that he had made me a member of his cabinet and apparently had never regretted it, and this information you are free to circulate wherever and whenever you think it desirable.

I am enclosing copies of some other correspondence that will interest you, particularly Mr. Currie's letter and that part of it referring to Montgomery and also wish you would read my reply to this of which I inclose a copy.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

THE WITNESS (continuing): Mr. Couzens, referred to in that letter, was then Commissioner of Police of the City of Detroit.

DEFENDANT'S EXHIBIT NO. 52-H.

April 11th, 1918.

My dear Commander:

Some of the western Michigan leaders are making a desperate effort to find someone who will stand for the nomination. Arthur Vanderberg has been mentioned, but does not seem to be quite acceptable. There is the objection, of course, that being Senator Smith's right-hand man, the Senator would be accused of trying to hand the toga over to his chief lieutenant. T. J. O'Brien has also been discussed, but is pretty old. Ex-Congressman Lindquist has been spoken of, but does not seem to just meet with the requirements. At a recent conference

at the home of Ben Hanchett, at which I have confidential information Senator Smith, Wm. Judson, Ex-Congressman Diekema and Arthur Vandenberg were present, they tried to make Diekema think he ought to run, but he told them he did not have the price. No action was taken, but they are hoping to find a Moses somewhere.

Confidential information also this morning indicates that the people behind the Ford candidacy are the Booths, and that they are planning to circulate his petitions and try to force him to run anyway. This does not scare me very much either.

Hon. Harry A. Conant of Monroe called yesterday, and is very much interested, as you know. I am counting on his assistance in Monroe County.

I have had a good talk with Jack Knight (John J. Knight, of the Department of Public Works), whom I think you know. He is for you strongly and I would suggest that you write him, expressing your appreciation.

I have just left Cameron Currie and he is enthusiastic, as you are aware. We will work closely together.

Mr. Warner is scared by the Ford bogie, and is postponing his announcement for a month. I would not be surprised if it ultimately works out so that he will not enter at all.

Sincerely yours,

Paul.

PHK-N

DEFENDANT'S EXHIBIT NO. 52-I.

April 13, 1918.

My dear Paul:—

Your letters of the 9th and 11th are received. The former had my very thoughtful study and attention when I was quiet at home last night, and I am just beginning to appreciate the tremendous amount of organization work you have accomplished. I realize, as I have said many times before, how extensive is your acquaintance and how thoroughly your missionary work is being done.

The minutes of your weekly meeting are intensely interesting and I hope you will send me copies of them hereafter. The plan of having your field men in each Monday, and the county managers monthly, should enable you to keep fully informed as to the progress of your

efforts. Certainly the present outlook indicates a favorable advance in thirty days.

I am glad to have the maps and the detailed reports from each county, which I shall be able to consult frequently as matters in various localities are referred to in your correspondence.

All the men you have selected seem peculiarly adapted for their various districts, and I am particularly glad that you have found an opportunity to use Jim McGregor which I know will please Mr. Warren, his friend.

Until I hear from you in regard to the members of the Wayne County Committee I shall not write to them, for as you say, Mr. Oakman may take the message which I sent through him as sufficient.

I have noted in the papers and heard in a round-about way of the efforts of the Western Michigan leaders to secure a satisfactory candidate from that locality and I am glad to have them try out everybody they can think of at this early stage of the game.

There is no doubt but that Mr. O'Brien's advanced age would not help him any in the campaign. The other men you mentioned have been talked over many times. The fact that the Booths are behind Mr. Ford seems reasonable to me, but that does not explain their campaign against millionaires.

This is particularly amusing if they intend to select the richest man in the world to represent them in Washington in connection with some $200,000,000 contract they have with the government.

I shall write Mr. Knight as you suggest.

I am delighted to know that you have met Mr. Currie and that you will work closely together. He is an intimate, devoted friend of mine, and I hope you will persuade him to come down with you—as my guest, of course— and take part in our next conference. He is responsible for Mr. Warren's retirement and friendly attitude toward my candidacy.

I am glad Mr. Warner is scared out for the present, and as long as we keep up our publicity work at full pressure, it will be harder and harder for any new man to get any kind of a start that will make it seem worth while for him to be a serious candidate.

I wonder if you have ever heard anything from Mr. Osborne. I fully expect that some day he will write

me. If he comes to New York I shall be glad to have a talk with him.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King, 310 Ford Building, Detroit, Mich.

THN-NM

THE WITNESS: Mr. Cameron Currie did not become active in the campaign. I think he left for France before we had gotten very far with the campaign.

DEFENDANT'S EXHIBIT NO. 52-L.

Detroit, Mich., Apr. 15-18

Truman H. Newberry,

Hotel Gotham, New York.

Currie advises Larned arrives New York today or tomorrow, suggests you look him up and call on him, possibly gaining his support for you. Big dinner planned for him on return and enthusiastic friend may suggest his candidacy.

Paul H. King.

THE WITNESS (continuing): Mr. Larned had been abroad at that time on war work and this refers to his arriving in New York from abroad.

DEFENDANT'S EXHIBIT NO. 52-M.

April 16, 1918.

My dear Commander:

I have just returned from Chicago, where I had a most interesting talk with Roger Andrews. He is my warm personal friend, so that I could talk to him plainly and frankly, without fear of hurting his feelings. He is not looking for credit or glory any more than the rest of us, which is not at all, but, like every man in the organization, simply desires to win.

He realizes the fact that, while he has made many warm friends in politics, he has also made some enemies, and that it would be unwise for him to be active in localities where the latter are influential.

He has already started some work, with my approval, which will not conflict in any way with the organization which we have in mind, and with which we will go ahead without regard to him. I told him that I should wish to consult him about everything that is done and that our

organization work will be handled directly from this office. This is most agreeable to him and he is going to play the part of a good soldier and do what he is asked to do. This, I think, will effectively take care of the situation in the Upper Peninsula.

On my return from New York next week I shall make a trip through the Upper Peninsula counties and confer with the leaders there, forming preliminary organizations wherever advisable at this stage.

We have our meeting of the field men today and I will send you a report tomorrow.

With best regards, I remain

Sincerely yours,

PHK:S Paul.

DEFENDANT'S EXHIBIT NO. 52-O.

My dear Commander:

April 17, 1918.

Our party will be down for Saturday and Sunday, leaving here on the Detroiter Friday evening. It will include Allan, Mr. Floyd, Mr. Hopkins and myself, also Mr. Sibben, my secretary. Mr. Currie is not sure whether he can come and I may ask Mr. Burt Cady. You will be pleased to learn that Mr. Barber—of the Michigan Stove Company—and Mr. Jewett of the Paige Company have called at the office and are most enthusaistic in your behalf. They want to help in any way they can. Mr. John Nichols brought them in. Doctor Parker also called and took some petitions. I thought I would have our report ready by this time, but our correspondence has been so heavy that I am holding it until I come to New York when I will bring it with me.

We are making progress, but on account of the Liberty Loan it is a little slower going for the time being. With reference to the attached list, I will say that it was made up from copies of the letters which you let me have in New York on our last trip and I thought you might wish to have it for reference. Perhaps you prefer the letters themselves, however, and I am enclosing them herewith. Mr. Warner, it is reported, will very soon make the announcement that he will run. Nothing more has been heard from Mr. Couzens and there is some talk about the

Ford candidacy. I am glad that you are not concerned about it. Some of Mr. Ford's pacifist chickens might come home to roost. Fred Martindale and I had a most interesting visit yesterday and he is strongly for you. He will do anything he can. I am wondering if it could be arranged so that I could get into touch with some of the moving picture people Saturday. Possibly Fred could look after this. I also want to find out what Fred did, if anything, in regard to having an article put into Collier's or one of the National Weeklies as we talked. You should not be bothered about these things and I fear Fred is too busy. I was thinking that it might be a good idea to have a man there who would do nothing else but take care of matters in connection with the campaign. I will discuss this with you Sunday. Please do not bother about us Saturday, unless it is perfectly convenient to do so. We will have our visit Sunday, I presume. I am obliged to be in Chicago Monday on a legal matter, and so will leave Sunday evening for Chicago direct.

I am enclosing an editorial which appeared in the News yesterday. I suppose it is intended to be humorous. As a matter of fact I had not accepted the invitation to speak. Senator Glaspie, of Oxford, a great friend of Mr. Warner's is secretary of the Association and very courteously called on me to say that he had invited Mr. Osborn and Mr. Couzens and would be glad to have you present if you could be there. I told him that this was out of the question and he then suggested that I attend. I said that I was neither a sportsmen nor an orator but that I would consider the matter. The next thing I knew, my name was on the program with this ridiculous topic. Then came the editorial. I do not think it will affect the situation in the slightest, althought it does show the animus.

With kindest personal regards, I remain,

Sincerely yours,

Paul.

P. S. I am also enclosing an article from the Journal giving part of Osborn's speech nominating T. R. for president. P.

THE WITNESS: This editorial referred to the annual banquet of the Sportsmen's Association of Michigan. The subject assigned to me was, "Sports I Have Met."

DEFENDANT'S EXHIBIT NO. 52-Q

MR. MURFIN: This is a telegram from Mr. King to Commander Newberry dated April 28th, addressed to the Hotel Gotham, New York:

"Wire received. Am sending booklets and cards as requested. Hope you have received my letter of yesterday by this time; Everything going well. Am leaving for Upper Peninsula trip tomorrow Sunday noon. Am writing again tonight. Will ask Allan to wire you Monday about Chamber of Commerce Letter."

THE WITNESS: The Chamber of Commerce letter I referred to was a circular letter sent out to the members of the Association of Commerce of Detroit, asking their support for Commander Newberry. I think at that time there were about 6,000 members, if I recall correctly. At that time the respondent Templeton was president.

DEFENDANT'S EXHIBIT NO. 53.

MR. MURFIN: This is a telegram dated May 1st, to Commander Newberry from Paul H. King:

"Am writing detailed report of my trip to date, but it will not reach you for two or three days. Trip so far most satisfactory. Had good day Dickinson County Monday, struck some opposition in Iron County Tuesday, but think can overcome it. Am having good day here. Feeling fine."

DEFENDANT'S EXHIBIT NO. 53-A.

May 2, 1918.

My dear Paul:

Your letter of the 27th and telegram from Ironwood are at hand. I also have a telegram from B. F. Emery, dated March 29th concerning Milton Oakman's conversation with Mr. Fitzgerald to the effect that Mr. Couzens will not run. Please thank Emery for his thoughtfulness in sending me this information.

I agree with you about the ridiculousness of my joining "The Loyal Order of Moose." Goodness knows what they are organized to do, but I will see Mr. Price, or Mr.

Dice, whenever they come and try to get myself into the frame of mind to become one of the Brethren.

Your reference to Mr. O. C. Davidson of Iron Mountain interests me very much, but I do not know anything about Tom Cole or his difficulty with the Duluth people. Do you mean the U. S. Steel Company people in Duluth? In this connection I am enclosing a copy of a letter received today from Mr. Duncan, and copy of my reply thereto. I think it necessary that I should have more detailed information concerning Mr. Davidson and his exact connection with the U. S. Steel Company before I undertake to talk to any of my friends here who are in intimate touch with that organization. You may be sure that I will leave nothing undone to accomplish the desirable result you indicate in this particular matter.

I am returning Mr. Grant M. Hudson's letter as you probably need it for your records. You may be interested to know that I have renewed the subscription of my brother and myself to the Anti Saloon League, which I made last year through Mr. Kresge, for $10,000—that is $5,000 each for my brother and myself.

I am returning today by registered mail the book of field reports which you left here and which I expected to have written up from the notes you had with it. However, time has not been found in which to do it and I gladly adopt your suggestion to exchange this book for a book brought up to date and repeat this operation monthly or whenever you think desirable.

Cameron Currie has been with me for a day or two, also Ben Warren. The former has been in Washington, staying with C. B. Warren who told him that Mr. O'Brien of Grand Rapids had dined at his house (C. B. W'S.) very recently and had asked Warren the question: "Are you to be a candidate for the Senate?" and Warren replied "No, are you?" O'Brien said that his friends were urging him to do it, but he did not think he would, but he did not definitely say "No."

There was some interest shown by Senator Penrose who was in town last night and talked with Currie, and by Senator Calder, who was in to see me the other day, about the Republicanism of Henry Ford. This matter will be brought to the attention of Mr. Hayes, Chairman of the National Committee, which I think is very neces-

sary and desirable, because of the control of the Senate may in another year or two hinge on the Republicanism of the next Senator from Michigan, and, therefore, our party is vitally interested in seeing that no man from our state is elected on a false pretense, and the very fact that the Democrats are prepared to endorse any one in Michigan for this responsible position should cause everyone interested to "sit up and take notice."

One or two untruthful remarks still crop up from time to time; one of them is in connection with my dues at the University Club of Detroit. The facts in this case you can obtain directly from Fred Smith. Another matter is the question of my giving the use of some land at Grosse Points Farms to the Boy Scouts. The facts are very simple. A man named Campbell asked for the use of the land and I asked him to describe the land so that if I did not own it I could get the consent of those who did; and later, when they told me what land it was I wired that if it was all mine they could use it, and they are now using it. I understand that John or Horace Dodge has made some critical remarks in connection with this matter, all of which are very unjust, and, as repeated to me, untruthful. As it may be necessary for you to be armed with the facts of the case, I enclose copy of the correspondence, which is absolutely all I know about the matter,—from which you will see that I did everything possible and as promptly as possible. I do not wish you to do anything more about this because it is a small matter, affecting only a few people, but it is nevertheless exceedingly annoying to me in view of the fact that I have in a quiet way, and without the knowledge of many people, paid one-third or more of the expense of the annual outing of the Boy Scouts to the camp at Grosse Pointe, and in addition, have contributed, whenever asked, sums of $100 for relief work—and all of this without any publicity. It really makes me sick to know how small-minded some people can be.

Sincerely yours, Truman H. Newberry.

Mr. Paul H. King,
Detroit, Mich.

DEFENDANT'S EXHIBIT 53-B.

May 2, 1918.

Ironwood, Mich. May 2, 1918.
Hon. Truman H. Newberry,
P. O. Box 908,
New York City.

My dear Commander:

Yesterday I spent in Iron County.

On my arrival yesterday morning I called on Captain W. J. Richards, Superintendent of the Corrigan-McKinney company, and he gave me a good deal of valuable information.

Iron County is very much Osborn. Both papers, that is, the "Diamond Drill" at Crystal Falls, and the "Reporter" at Iron River, are for him. He was a newspaper man himself at the little town of Florence across the line in Wisconsin, and has prospected through this territory with a pack on his back. He knows many of the old-timers and can call the mine men by their first names. The editor of the "Drill," Thomas Conlin, he appointed a member of the Board of Control of Newberry Asylum, and I am told that he paid off the mortgage on the property of the editor of the "Reporter," Patrick O'Brien, so that both feel under obligations.

Senator Michael Moriarty is with us, but does not wish to take an active part. Captain Richards and I labored with him all last evening trying to get him to take the Chairmanship of our committee here, but he did not feel that he could do so. He is not very well and dislikes to get into the turmoil of a political fight. He promises to help all he can on the side, and is a good man for us.

We visited all the county offices and found a friend in John Wall, the County Clerk. The Register of Deeds, Alex. Rogers was non-committal. The Sheriff, Robert Wilson, and Treasurer, Frank Ball, were away, but I found the Judge of Probate, Claude C. Ritze, at Iron River, where we drove in the afternoon. He very frankly said he would be for you and would do all he could to help.

At Crystal Falls, I also met W. D. Hill, Superintendent of Schools, William Gribble, City Clerk, Samuel Bridges, the Mayor, J. J. Gaffney, ex-Mayor, George Rollin, City Engineer, William Broad, Chief of Police, Irving

H. Jackson and John Lind, Deputy Sheriffs, Samuel Jacobs, Jeweler, Leigh Caswell, Attorney, William Rezin, Druggist, Captain Alfred Martin, Superintendent of the M. A. Hanna Company, Ira Odgers, a driller, William Reynolds, former County Treasurer and probable candidate again, and James R. Flood, a confectioner.

The Manager of the Wickwire Company at Iron River E. E. Bower, is for you, also Attorney Frank Dixon. The President of the Bank, E. S. Coe, would like to be for you, but has promised Osborn some time ago. I also met Father Lenhart, Catholic Priest, whom Captain Richards thinks he can get to help us.

We think we can neutralize considerable of the Osborn sentiment. Richard is Coe's vice-president and can help there. Moriarty is a partner of Conlin's and will do what he can with him. Captain Richards controls Hill, so that he will be for us; Jacobs does as Moriarty says, so that we can count on him. Rezin is for us. Caswell is a former partner of Charles H. Watson, who has moved to Cleveland, and I think we can count on him. Odgers, who is an expert miner and meets a great many people, talked favorably. Flood is against us, training with a man by the name of J. R. Stolberry, who has considerable influence with the Swedes, and they are largely for Osborn at this time.

The others I met were non-committal. I called on the City Treasurer, Louis A. Henry, who is our friend, but he was away, as was also Doctor A. M. Darling, another man who is for us. I am writing both of them.

As a summary, we have the mine men with us here and they can do much. However, we must take steps to get the other people also. Captain Richards received a bad blow here recently in the adoption of the commission form of government for the city of Crystal Falls. He is a supervisor and Chairman of the board for the county, secretary of the Board of Education, and ran the town until the upheaval. He has still great influence, but is no longer supreme. He had done considerable work for William Alden Smith and the pegs were all set for him, as far as they were able to arrange things, but now they will be with us. Senator Smith's re-entering at this time would not affect things very much as nearly as I can judge, as the mine men are pretty well set.

Iron County is certainly our worst spot, but we will do our best to hold it down.

With best regards, I remain

Sincerely yours,

Paul.

PHK;S

DEFENDANT'S EXHIBIT 53-C.

Ironwood, Mich., May 2, 1918.

Hon. Truman H. Newberry,
P. O. Box 908,
New York City.

My dear Commander:

Thinking that you might be interested in my travels, I will try to give you a daily report of the progress I make on this Upper Peninsula trip, which I regard very important at this stage. As a matter of fact, I am going to try to spend more time out in the state and less time in the office. Now that it has gotten to running so smoothly I am sure that Mr. Emery and Mr. Turner will get along all right.

I left home Sunday noon and arrived in Iron Mountain, Dickinson County, Monday morning. I met twenty men and covered four towns during the day. When I got through I felt very much pleased with the situation and with my progress.

I found some Osborn sentiment, of course.

In the morning we called on Tom A. Hanna, editor of the Iron Mountain Press, who was cordial and who later took me around to meet the county officers. He will help all he can.

I also met Walter Hosking, editor of the Tribune Gazzette, who said he would give us a square deal.

O. C. Davidson, about whom I wrote you the other day, is General Superintendent of the Oliver Iron Mining Company and President of the Commercial Bank. He is a long-time friend of Osborn's, yet we had a most delightful visit. He told me he was sorry Osborn was a candidate and that he had tried his best to keep the ex-Governor out of the race, and that Mrs. Osborn did not want him to run,—that he thought you were splendidly qualified and had hoped you would have no opposition. He will undoubtedly vote for Osborn, but nothing more.

I found considerable Osborn sentiment among the county officers. Judge John O'Hara of the Probate Court is for him because he is an Upper Peninsula man, but Hanna thought this could be overcome. The County Clerk, James D. Cudlip, is for him because of personal friendship. The treasurer, Silas J. McGregor, was a captain in the Spanish-American War and was very much interested to know that you are also a Spanish-American War veteran, and visited with me about your candidacy at some length. He wants to know more about it. I think we may expect some help from him.

The Board of County Poor Commissioners, (J. F. Cowling, Iron Mountain, J. F. Milks, Secretary, Norway and Frank Francks, Supt. County Farm) was in session and I was invited in and talked with them collectively, together with the County Commissioner of Schools, Donald O'Hara, who happened to be in the room. The Sheriff, Charles A. Lundgren, got into an argument with the Clerk over the matter and he said he understood that Osborn was a man who "threw" his friends. Of course I did not enter into the discussion, but let them fight it out. I think the Sheriff might be persuaded to help us.

After getting through at the Court House I got an automobile and traveled to Vulcan, where I met your warmest supporter in the county, Hon. William Kelly, Superintendent of the Penn Mining Company and Chairman of the Board of County Road Commissioners. He is a very fine gentleman, knows all about you, and will help in every way he can.

The Chairman of the Republican County Committee, Mr. Meyers, is a clerk in Mr. Kelly's office. Mr. Kelly is, by the way, a Yale man and spoke of the fact that you are also an Alumnus, which he said would not hurt you any with him.

I then traveled to the little mining town of Loretto and met Charles Baxter, Manager of the Loretto Mine, who, I think, will be with us. He has no particular love for Osborn, nor for Warner, and, while he is not acquainted with you, he comes from Detroit and knows about you.

I had dinner in Norway with Hon. James B. Knight, former member of the Legislature, and editor of the Norway Current. He is a warm personal friend, but has not decided what he should do with regard to the Senatorship. Osborn is a friend, he knows Fred Warner, and

he thinks very highly of you. He said to send along any publicity I wanted and he would see that it was used, and would make up his mind later.

In the evening I spent a few minutes with Judge Richard C. Flannigan, of the Judicial Circuit, whom I have known for many years. Inasmuch as he was ill with La-Grippe I did not talk politics at all, but have since written him.

I am keeping in close touch with the office, and everything is going well there.

With kindest regards, I remain,

Sincerely yours,

Paul."

DEFENDANT'S EXHIBIT 53-D.

May 6, 1918.

My dear Paul:

Your two letters of May 2nd from Ironwood reached me this morning, and are, of course, of the greatest possible interest.

You certainly have covered a great deal of ground and accomplished a great deal in your trip to the Northern Peninsula. Of course, the situation in Iron County will require more attention, but with the foundation work already done, I am hopeful that it will improve our situation in that locality.

In view of what you say about O. C. Davidson, I do not think I will do anything more about it unless you personally request it. Many of my friends know him and I have been asked today by the head of one of largest trust companies to appoint a time when he can talk to me on a political matter.

I have no doubt that people here with interests in Michigan are already beginning to fear the advent of Henry Ford and until this positive danger is eliminated, I do not feel that we will have any straight and easy sailing. I do feel very strongly, as I think I told you before, that this menace of Henry Ford's false Republicanism is something that should be handled entirely by the National Committee or the Campaign Committee of the Senate, and I don't want to have anybody associated with me in this matter begin any attack on Henry Ford of any kind. His Republicanism is not my fight but is something that the Republican State Committee and the National Com-

mittee and the Senate Campaign Committee are vitall interested in, and if the matter develops further, I hop you will see that this particular feature of the Senatoria Primary Campaign is entirely omitted from the wor you are doing, and I think the letters written from you office should carefully avoid any reference to this matte

I will be interested to have your report after you hav been home and looked matters over in your office. I sup pose you will soon have your monthly meeting again an the result of that I await with much interest.

Please remember me to everybody in the office that know and to those others that I want to know.

Mr. Currie was here last week and will arrive agai within a day or two. He is filled with information of a kinds and tells me that his associate, Mr. O'Hara, wi take an active interest in and keep up the work that M Currie was going to do. I know you have seen him an would be glad to know what you think of him.

Yours Sincerely,

Truman H. Newberry.

Mr. Paul H. King,
Detroit, Michigan.

DEFENDANT'S EXHIBIT NO. 53-E.

Houghton, Mich., May 3rd, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.
My dear Commander:

BARAGA COUNTY.

I arrived in L'Anse last evening and spent the nigh and this morning there.

I called on Martin Voetsch, the County Clerk, who for us; also met Charles Kelsey, Deputy County Treas urer, who has some influence, but did not commit him self. Delore Menard, the County Treasurer, runs the liv ery and was our driver over from Nestoria. He seeme to be much interested and would be a good man to hav with us, as he rides the county continually.

Hubert A. Brennan, the Prosecuting Attorney, is her today and I saw him and he will be with us.

I also met Judge W. S. Crebassa, who has just been ap pointed by the Governor to take charge of the enforc

ment of the new Liquor Law. He is a full blooded Indian, a man of education, and considerable influence and ability. He was kind enough to take me around the town and introduce me to people.

I also met Leo Brennan and J. E. Brennan; the latter is a brother and business partner of Hubert.

I called at the Baraga County National Bank and met Thomas D. Tracy, Cashier, who is favorably inclined toward you. This is the bank of which Hon. J. O. Maxey is President. Maxey is a former Representative and the leader of one of the factions in the community. He had charge of the Leland campaign for Governor, but did not carry the county. I have known him for many years, but he was away at the time and I did not see him.

However, at the saw-mill I met Fred M. Foster and O. E. Alter, the men in charge. The mill has recently been acquired by the Stearns interests at Ludington, after having been idle for two or three years. W. T. Culver of Ludington, the Stearns business manager, is for us, and this will help in Baraga. The company employs nearly five hundred men here. I went through the mill and shook hands with some of the men.

I called on E. J. Westphal and Thomas Edwards. Mr. Edwards is the editor of the Sentinel. Both are with us. The Sentinel is partly owned by some of our friends here in Houghton.

I made an effort to see Homer J. Pennock, the Sheriff, but he had been out on a case the night before and was in bed, so I left a note for him.

I could not locate the Judge of Probate, J. J. O'Connor, and although I made several attempts to find J. P. Smith, proprietor of one of the stores and father of Russell Smith, Superintendent of the Ahmeek Mine, I could not connect with him.

I also met Thomas A. Cosgrove, Village Treasurer, O. Savoy, ex-Township Clerk and a clerk in Smith's store, and Henry Johnson, a grocer. These men will all be with us, I think, particularly the last named, who was very outspoken in his assurances of support.

I found no Osborn sentiment in Baraga at all, and everything looks good to us. The most active men here are Judge Crebassa, Hubert A. Brennan and Wick O'Connell of Houghton. O'Connell is a contractor and lumberman and well known to workingmen and lumber

jacks throughout the entire peninsula. He is strong for us and can do much.

Petitions have been sent to Brennan, whom I am asking to take charge of the county.

Sincerely yours,

PHK:S

Dictated May 3rd but not written until May 6th.

DEFENDANT'S EXHIBIT NO. 53-F.

Marquette, Michigan, May 5th, 1918.

Hon. Truman H. Newberry,
P. O. Box 908,
New York City.

My dear Commander:

Keweenaw County.
Houghton County—Ontonagon County.

I arrived here at noon Friday and got busy at once.

The first person I called on was J. H. Rice.

Rice is President of the Houghton National Bank and one of the most influential men in the county. He is a close friend of Mr. James McNaughton of the Calumet & Hecla; is a part owner of the Houghton Gasette, and is interested in almost every enterprise of any consequence in the city. He is very strongly for you and will do everything he can.

I was a guest at the home of the Hon. W. D. Calverley, a member of the Constitutional Convention and Vice President of the Bank. He is a good booster and will help.

Paul Swift, wholesale hardware dealer, Adolph J. Ruhl, Manager of the Lake Superior Produce Company, and F. L. VanOrden, Superintendent of the Wyandotte Mine, are all friendly, but I had but little opportunity to talk with them. Met them at the Club. I had an appointment with Wick O'Connell and Lewis Burr, an industrial agent who secures men for contractors' gangs and lumbermen's outfits. Both these men work among the laboring men and are good vote getters. They can and will help in other counties, as well as Houghton.

I also met Deen L. Robinson, a son of former Lieutenant-Governor O. W. Robinson, who appointed me a Page in the Senate twenty years ago. The old man is pretty feeble and is confined to his bed much of the time. He is nearly blind. I went out to his home to see him,

which pleased him very much, also the son. Mr. Deen Robinson is a partner with Allan L. Rees and Hon. Albert Petermann, and the firm is counsel for the Calumet & Hecla. Mr. Petermann is a member of the Legislature and, at the present time, acts as Judge Advocate General on the Governor's staff, spending all of his time in Lansing. These people will be with us.

On Saturday I went over to Hancock early and called on Albert Ley, the editor of the Journal. Here I found, not exactly opposition, but at least no support. Ley takes the position that we will have to do a great deal to overcome the feeling on the part of the people that if you are in the service you should stay there, instead of seeking to get into the senate. I urged that it was simply a question of where you could be of the most service, that the opportunity for serving would be so much greater for a man of your ability in the Senate than at your present post that it would be most unfortunate for the state not to avail itself of your services. I do not know whether I made any impression or not.

On the way to Hancock we met George E. Ross, Purchasing Agent for the county, who is with us. Also W. R. Thompson, President of the First National Bank of Hancock, who is all right, and Judge Charles O. Olivier, who did not commit himself.

On my return to Houghton I called on the county officers and met Hon. George C. Bentley, Judge of Probate, Nicholas F. Kaiser, County Clerk, and Clyde S. McKenzie, Register of Deeds. They did not commit themselves. William Bath, County Commissioner of Schools, spoke favorably.

I then called on William Miller, Manager of the Haas Brewing Company, who will help, and had a splendid visit with Homer Guck, editor of the Gazette, who is solid for you. The Gazette owns the Calumet News and its attitude will be favorable. Guck's plan is to urge for the present, the selection of an able, well-balanced man, and then the last month of the campaign to come out strongly for you, on the theory that it would not be wise to play you up too strongly at the beginning as there might be a re-action, if it were thought that the mining companies were too favorable.

I also had a visit with Robert H. Shields, member of

the State Central Committee, who is for us. He is said not to be as strong locally as he used to be.

I then traveled to Lake Linden and called on Charles Eddy, Chairman of the Board of Supervisors of the County, who seemed favorably inclined, but did not commit himself. I also called on J. H. Wilson, editor of the Lake Linden Times, who says he does not take much part in politics. He is friendly, however.

From there we went to Laurium, where I saw James T. Fisher, Cashier of the State Savings Bank, who is well connected in every way and very popular with all classes. Mr. Fisher will handle the county for us and the petitions have been sent to him.

We then went to Ahmeek, which is over the line in Keweenaw County, and, after some difficulty, succeeded in locating Abner Crebassa, son of Judge Crebassa of L'Anse, a popular young fellow, and very active politically. He will look after Keweenaw for us. Petitions have been sent to him.

Traveling back to Calumet, I called on Hon. W. J. Galbraith, an attorney and former member of the Legislature. He is with us. I also called on Hon. Anthony Lucas, Prosecuting Attorney, and former member of the Legislature, whom I know very well, but he was out and we could not wait.

We then went to the Calumet State Bank and called on F. J. Kohlhaas, Vice President and Cashier. He had gone, but I later found him at the Club in Houghton, where I also met Russell Smith, Superintendent of the Ahmeek Mine. Kohlhaas did not commit himself, but Smith will be with us.

I also had the good fortune to meet Hon. A. D. Edwards of the Atlantic Mine, former member of the House, and a good friend. He will help.

In Calumet I was unable to locate Captain John Knox and O. F. Bailey, two men of influence, but am writing them.

By a stroke of good fortune I fell in with J. Abner Sherman, a friend of Wick O'Connell's, who is inspector for the mining company, but well liked among the men, and a man who knows everybody, practically. He went around with me and was very kind in introducing me to people.

In Houghton I also became acquainted with Isaac Mil-

ler, a Jewish clothier, who knows many people and will help. Also John Mackey, who employs men for the mining companies.

Houghton County looks fine. I could find no Osborn sentiment whatever, and, with the exception of Ley, editor of the Hancock Journal, everybody seemed friendly and interested and willing to help.

I was unable to get into Ontonagon County, but had a long conversation over the phone with John Jones, Prosecuting Attorney of the County, who will handle our campaign for us there.

I feel very much pleased with the outlook in the Copper Country, and, with good work, we ought to get a big vote.

I left for Marquette at 10:45 p. m.

Sincerely yours,

Paul H. King.

PHK:S

DEFENDANT'S EXHIBIT NO. 53-H.

May 12, 1918.

My dear Paul:

Your letter from Marquette of the 5th reached me a day or two ago, and as usual it affords me one more opportunity to thank you for the thoroughness with which you do everything that you have charge of.

All the information you give me concerning the various individuals I have filed away in my mind and only hope that I can remember the various individuals if I ever have the good luck to meet them. Possibly some time we will make this kind of a trip together, so that I can express in person my appreciation of the interest shown by so many prominent men.

Albert Ley of Hancock expresses exactly what I have often thought myself, and that is why I should not stay where I am doing useful service instead of seeking to get into the Senate. I wish I could make it clear to those who ask this question that I sincerely and honestly have no ambition beyond that of being a useful citizen and will be perfectly satisfied after we have made every honorable effort for success, to abide by the decision of the Republicans in Michigan as to where my services would be of the most value. I am absolutely without any personal ambition for political preferment because, as I

have told you before, the position I have held in Washington as a member of the Cabinet is higher than that of any senator, with much more authority than any Senator, who has absolutely no executive administration work. Of course, I want to be successful in what I undertake and I am in this campaign to a finish, as you well know.

I have sent to Allan or to you my correspondence with Groesbeck about the Holmes matter and also correspondence with Mr. Gray of the Gray Motor but have never received your comments on these letters. Please look them up and let me know frankly what you think of them. I am also waiting for the two original letters of Mr. Roosevelt's which I handed to you in my office when you were here and will be greatly interested in your comments on Mr. Roosevelt's last letter and my reply. I have no doubt the individual that T. R. refers to is Osborn himself, which if true, shows that T. R.'s first letter to me is doing some remarkably effective work.

I also expect to get your ideas about the Miller correspondence which, as you know, I consider personal and not to be used or referred to in my campaign.

I wish you would tell Allan that I have not had a letter from him since you left here.

Truman H. Newberry."

DEFENDANT'S EXHIBIT NO. 53-I.

Marquette, May 7th, 1918.

My dear Commander:

I arrived here Sunday morning at 5:00 o'clock and, after an early breakfast, spent the forenoon in dictating reports and correspondence, and in the afternoon and evening we got off the mail.

In the meantime, however, I had some chance to visit with a personal friend, Earle M. Parker, one of the professors of the State Normal, who, while not a politician, could do some good among his friends.

Monday morning the first thing I did was to call on M. J. Sherwood, attorney for the Longyear interests. This was done on the recommendation of John D. Mangum, Chairman State Central Committee, who lives in Marquette; also at the suggestion of Mr. M. M. Duncan of the Cleveland Cliffs, who was out of the city, but with whom I had a good talk over the phone before I left Houghton, Saturday night. Mr. Sherwood and I talked the situation

over at some length and he then spent the rest of the day and Tuesday up until train time with me, helping me to meet people.

Before starting out, we waited for John Bush of North Lake, Mr. Duncan's right hand man, to arrive so that we could go over our program with him.

The first man we called on was Mr. George J. Webster, manager of the Charcoal Iron interests, who is with us.

Professor Parker secured for me an invitation to attend a meeting of the Rotary Club and I was called upon for a speech. Of course I could not talk politics, but everyone knew why I was there. I met about thirty-five of the leading business men of the city, Mr. E. B. Eldredge, President of the D. S. S. & A. R. R., the president of the club, and Mr. George W. Rowell, Jr., Secretary of the Upper Peninsula Development Bureau, Secretary, were among those I met.

After the luncheon I met Frank G. Jenks, the County Clerk, who is with us, and Hon. W. T. Potter, Judge of Probate, who showed me all over the Ishpeming the next day and was a big help to me. I also met Alfred E. Archambeau, clothier, August Mellin, a butcher, and Theodore A. Schneider of the Schneider & Brown Lumber Company, all of whom are for you.

Mr. Sherwood took his car and we traveled out to see Mr. E. L. Pearce, Manager of the Lake Shore Engine Works, who is for you. We then traveled out to the prison and had a long talk with Warden Russell. I supposed, of course, that he was strong for Osborn, but find that he is not. While Governor Osborn stood by him in his impeachment trial he figures that the Governor did so because of a desire to prevent any stain upon his administration rather than for personal reasons. He will not take any active part, however, either way.

I then called on Frank Russell, editor of the Mining Journal, and had a most satisfactory talk with him. Instead of being for Osborn, as I supposed the paper would be, we will get an even break, which, under the circumstances, is fine.

In my call at the court house I met Albert Bjork, County Treasurer, who is strong among the Scandinavians, and William Newcombe, the Sheriff, who is influential among the miners. Both of these men are for Newberry.

In the evening I met Leon E. Garvin, son of John Gar-

vin of Ontonagon County, who gave me valuable suggestions on that county.

During the afternoon I met John Carlson, a grocer, who is influential among the Swedes. He is with us. I also had a talk with Mr. Wm. Trebilcock, a florist, who is a lieutenant of Congressman James. He is for you.

Tuesday morning Mr. Sherwood drove me over to Negaunee, where I met Mr. Frank A. Bell, a lawyer and president of the Negaunee State Bank. He is pledged to Warner in case he is a candidate, but he hopes that Warner will not run. Mr. Bell took me into both banks and introduced me to the cashiers, Mr. Thomas C. Yates of the First National Bank, and Mr. Thomas Pascoe of the Negaunee State Bank. We also went up and called on Doctor Nelson J. Robbins, the Mayor, who received us very cordially and seemed favorably inclined, but did not commit himself.

We then drove out to see Captain G. R. Jackson, a Cleveland Cliffs man, who was outspoken in his support of you.

Back in town I tried to call on Thomas Connors, former Mayor and an influential politician, but he was out; we then drove on to Ishpeming and called on George A. Newett, publisher of the "Iron Ore," who is for you good and strong. George S. Hayden, editor of the Ishpeming Record was out.

Judge Potter then took us in tow, and, after luncheon, we called on Captain Frank E. Keese of the Oliver Mining Company, who did not commit himself. His attitude will depend on that of O. C. Davidson of Iron Mountain, who is General Superintendent of the District, Captain Charles Kruss of the Jones & Laughlin interests was out. I met Captain Thomas Walters, for years a power in the community, but now an old man. He is not without influence, however, and is for you.

I also met Hon. Thomas F. Francis, member of the Legislature from this district, and a personal friend. He did not say, however, how he stood on the Senatorship.

At the city hall I called on Richard H. Olds, the Recorder, who is O. K.

I also saw Thomas Clancey, an attorney, who is active politically. R. P. Bronson, coal, and lumber dealer and banker, strong for you, was not in when I called.

Judge Potter kept me meeting people until I no longer

kept their names, even, as we were holding a reception on the street and finally had to break away and drive like mad for the train, which we barely got, at Marquette.

I feel that the prospects in this county are unusually good. It has the second largest vote in the Peninsula, being next to Houghton, and I think with the right kind of an organization we may look for good returns.

Mr. Sherwood will handle the petitions and possibly head up the organization. This will be determined later.

Sincerely yours,

Paul.

PHK:S

P. S. This report was held up because my notes were left in Marquette and there was a delay in forwarding them."

DEFENDANT'S EXHIBIT NO. 53-K.

St. Ignace, Michigan, May 9th.

My dear Commander:

MACKINAC COUNTY.

"I arrived here at 9:00 o'clock last night, and, while I made an effort to get into touch with E. H. Hotchkiss, President of the First National Bank, I was unsuccessful. I saw him the first thing this morning. He is with us, but never takes an active part in politics; that is to say, he never holds office, or heads up committees, but is very influential just the same.

E. J. Chatelle, editor of the Republican-News, and Secretary of the Republican County Committee, is all right, but does not feel that he can take an active part in our organizations as he is loaded up with war activities of various kinds.

I made it a point to stay at the Hotel LeClero because of the fact that one of the proprietors, H. D. Whitwall, is Treasurer of the County Committee and President of the Republican County Club. He was good enough to take me about town today and introduce me to the people I should meet.

One of the strongest men in the county is Robert H. Benjamin, Sheriff, who, it seems, has been undecided whether to support you or Mr. Osborn. I did not know this but proceeded on the theory that he was for you, which worked very well and he has consented to handle

the petitions here. This pleased Mr. Hotchkiss very much as he was fearful that the Sheriff might be the other way.

I also met Herbert J. Hotchkiss, a son of the banker, and county Treasurer. He did not commit himself, but I think he will be all right, if it develops that he will have no opposition himself. The Treasurer and Sheriff are the only republican county officers.

Joseph Wenzel, Purser on the car ferry "Wawatam" is one of our best friends here. He will help in any way possible, and says not to worry about the county.

I met the Mayor Walter G. Wing and he is with us. Clarence W. Rogers, City Clerk, Frank S. Walker, a furniture dealer, Edward McNamara, attorney, Charles M. Whiteside, abstractor, J. W. Quance, a grocer, Harold Sears, a barber, and Richard Bartlett, a railroad man, are all for you.

Doctor James F. Darby, L. Winkelman, proprietor of a department store and Eugene E. Brown, Supervisor of St. Ignace Township (post office, St. Ignace) did not commit themselves.

George T. Arnold, of the Arnold Transportation Company, Mackinac Island, I did not see, but he has already pledged himself to you.

The only man I struck who said that he leaned toward Osborn was Albert Highstone, proprietor of a dry goods store.

Mr. Chatelle and Mr. Whitwell gave me the names of the following men who are influential in the county and I am sending them letters.

W. D. Hossack, Cedarville,
Thos. Morrison, Pickford,
J. J. Derusha, Rexton,
Supervisors,
Nick Koski, Ozark,
H. H. Ryerse, Allenville,
A. A. Corp, Groscap,
Carl F. Gustafson, Brevort,
F. H. Freeman and C. W. Bretz, Engadine,
Hon. Ales Sly, Pike Lake (former member of the Legislature),
Frank Doyle, Hessel,
Hon. Archibald McEachron, Gould City.

I feel that with proper effort we can carry this county in good shape. There is a strong anti-Osborn sentiment

because, while Governor, he vetoed the appropriation bill for Mackinac Island State Park, and is said to have given the reason that it was a "millionaires' playground and they ought to pay the cost of keeping it up."

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT 53-I.

Manistique, Michigan.
May 10th, 1918.

Hon. Truman H. Newberry,
P. O. Box 908,
New York City.
My dear Commander:

SCHOOLCRAFT COUNTY.

I arrived in Manistique last night at 9:00 o'clock.

This morning, at the hotel, I was fortunate enough to meet Benjamin Gero, owner of the Courier-Record and Chairman of the Republican County Committee, who, I knew, was strongly anti-Osborn. We had a visit about the campaign and later in the day he took me around to meet people.

I called on Hon. James C. Wood, State Senator from this District, and Secretary of the County Committee, who was kind enough to introduce me to some of the prominent men of Manistique. He was very courteous but, in no case, remained with me while I was talking to them, always excusing himself and waiting for me outside. Subsequently I learned from Mr. Gero that Senator Wood is for Osborn without any question. Nevertheless, credit must be given to him for his courtesy and the considerable amount of time which he gave me.

Senator Wood first took me over to see A. S. Putnam, a druggist, who is a strong anti-Osborn man and he promised to do anything that he could, although, as he said, he is no politician.

We then called on E. H. Jewell, Cashier of the Manistique Bank, who is strongly opposed to Osborn, and who will be with us.

The County Treasurer, C. L. Smith, is an employe of the bank. I did not learn this until after banking hours, so did not see him. I imagine that he will be influenced by the attitude of Mr. Jewell.

W. S. Crowe, Cashier of the First National Bank, is for Newberry and does not hesitate to say so. He controls the other paper, the Pioneer Tribune, so that we will have both papers.

Carey W. Dunton, attorney, for years a friend of Mr. Osborn's, is opposed to his candidacy for the Senate and will help us. He very kindly extended the use of his office during the day for our work.

In the afternoon Mr. Gero took me to meet Mr. J. S. Edmundson, Manager of the Charcoal Iron Company's plant here. Mr. Edmundson did not express himself, but may be counted upon.

I also met Bruce Odell of the Consolidated Lumber Company, which is owned by the Stearns interests of Ludington, who, as you know, are favorable. Mr. Odell was outspoken in his support of you and this will be a big help, as these people employ a large number of men.

In my call on the county officers I talked with John N. Forshar, County Clerk, Edmund M. Ashford, Judge of Probate, G. S. Johnson, Prosecuting Attorney and John McCarthy, in the County Clerk's office, who were non committal. The Sheriff, Fred N. Orr, said he saw no reason why he could not be for you, and, inasmuch as he is not a candidate for re-election, this being his second term, I think he may be relied upon. He is a good man, I am told.

I visited with H. J. Neville, Cashier of the State Savings Bank, who listened attentively, but said he had not given the matter any consideration. He is a great friend of Mr. Harmon, whom I will mention later, which means he will be all right.

B. R. Kirk, Secretary of the Chamber of Commerce, was also non-commital as were Dr. T. F. Southard, a dentist, E. N. Orr, druggist, R. W. Goodwille, a lumberman, Ole Olson, proprietor of a soft drink establishment, and W. B. Thomas, Manager of the White Marble Lime Company. Mr. Thomas, however, made the significant statement that he thought this the time for the selection of a business man of good judgment, rather than a professional politician. Olson is said to have considerable influence among the Scandinavians, and, while he did not positively say that he would be for you, he talked favorably and I think he will be.

I tried hard to see L. C. Harmon, also of the Consoli-

dated Lumber Company and President of the Upper Peninsula Development Bureau, and W. R. Gillette of the Brown Lumber Company but was unsuccessful. Mr. Harmon is with us, however, and is said to be one of the strongest men in the Upper Peninsula.

Hon. William L. Middlebrook, a merchant, and Mayor of the city, is for you strong and gave me some suggestions about people to see.

We are also under obligations to H. B. Williams of the Gero Publishing Company, who went with me to the court house and helped me to meet the county officers. The only man I met who talked Osborn was Virgil I. Hixson, former Prosecuting Attorney, and formerly a strong man.

Mr. Gero will handle the petitions and I am writing the office to send them to him at once. He is a strong man here.

Senator Wood is going to be a candidate for Congress against Congressman Frank Scott of Alpena, so will not do very much for Osborn, even though he is for him. Hixson, the other Osborn man I met, I do not believe will take an active part. As a whole, I think the situation is very favorable.

Senator Wood gave me the names of the following men to whom letters will be written:

(Then follows twenty-nine names.)

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT NO. 53-M.

Escanaba, Michigan, May 11th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander:

DELTA COUNTY.

We arrived here at midnight last night, but I got a good start this morning, and have put in a good day.

Hon. Judd Yelland, Judge of Probate, came down to the hotel and we talked over the names of people whom I should meet. He spent the entire day with me and was much interested. You will remember he was one of the signers of the petitions asking you to become a candidate.

We called on J. C. Kirkpatrick and H. W. Reade, President and Vice-President, respectively, of the National Pole Company, and very influential men. Unfortunately, both were away. The Judge tells me that both of these gentlemen will be for you, however. I called on Menazepe Perron, influential among the French element, and Henry R. Dotsch, City Attorney and member of the State Central Committee, but they were not available and I did not see them. They are all right, however, according to Mr. Yelland. A. H. Ryall, an attorney whom I used to know in southern Michigan, was out of the city and I do not know how he stands.

After two attempts we succeeded in finding Doctor W. A Cotton, a prominent physician and former member of the State Board of Education. He is for you strong, as is also A. J. Young, dealer in men's furnishings, and a very active young republican. W. R. Smith, wholesale and retail hardware dealer, one of the leading business men, did not commit himself, but I believe he will be all right, from the way he talked.

I called on all the newspaper offices. John H. Norton of the Press is a former Cass County boy, so we had something in common to begin with. He is favorably inclined and will be "with the bunch," as he put it, which means Judge Yelland and his friends.

Ivan G. English, of the Daily Mirror, is a friend of Osborn's, but said he would give us a fair show. He will play up our publicity and gave me half a column in the paper for an interview, which he asked me to write myself, and I certainly improved upon the opportunity. Norton also extended the same privilege and I wrote another one for him.

F. L. Baldwin, the editor of the Journal, hates Osborn cordially. Baldwin is a pronounced "dry" and takes credit for having cleaned up the city, coming here, as he states, some years ago when there were one hundred saloons, two breweries, etc., thereby incurring the enmity of the Liberal element. He claims that Osborn, while professing to be his friend, made a deal with the "wets" for their support, throwing him down completely. He opposed Osborn in one of his campaigns and was sued for libel by Osborn, who recovered against him. While he feels very bitter, he will support Osborn if the "dry"

leaders decide that the "dry" support should go that way. He said that there will be a meeting in Escanaba in the very near future of the "dry" leaders from all over the state, when the matter of the United States Senatorship will be taken up, and stated he would do all he could to prevent an endorsement of Osborn. I talked with him a long while on this question and urged that it was much better for the "dry" organization either to endorse no one, or to be for you as a man of standing and, personally, a dry, who could be relief (I presume that means relied) upon, rather than someone who was simply using the issue as a campaign argument for himself, and who would go the other way on the slightest pretext.

I also saw O. V. Linden, Editor of the Medborgaren, a Swedish paper. He had just run your cut and announcement in the last issue, translating it into Swedish and adding some comment of his own.

I met Doctor C. M. Cuthbert, a dentist, and Mayor, who did not express himself; also E. C. Voght, a druggist, Thomas J. Riley, an attorney and former Mayor, Frank J. Hess, Register of Deeds, and T. E. Strom, Prosecuting Attorney, who were non-committal, but who Judge Yelland says are all right and may be counted on.

George F. McEwen, County Treasurer, and a man close to the laboring vote, is for Osborn, also H. J. Rushton, an attorney and former Prosecutor. These men helped me carry the county for Senator Townsend and are good men. I am very sorry not to have them with us.

Burt King, a traveling man, B. J. MacKillican, a clothier, M. J. Lang, connected with the National Pole Company, D. A. Oliver, furniture dealer, Miles Thomas, Assistant Cashier of the First National Bank, A. H. Rolph, an accountant and Secretary of the Masonic Lodge, and Charles E. Lewis, an attorney, are with us, also Adolph Dupuis, organizer of the Yeomen.

Later in the day I called on Murray K. Bissell of the firm of Erickson & Bissell, lumber dealers, W. W. Oliver, President of the State Bank of Escanaba and G. M. Mashek, Secretary and Treasurer of the Mashek Lumber Company, all of whom are for us.

At 4:00 p. m. I got a car and drove to Wells, about three miles distant, where I tried to call on R. E. McLean, Secretary and Treasurer of the I. Stephenson Co., lumber

dealers, and chairman of the Board of Supervisors. Mr McLean was up in the woods at one of the camps, so could not see him. Charles Kates of the Escanaba and Lake Superior Railroad was also out. Both of these men are for you, however, the Judge says. Kates can help with Rushton.

We then drove on to Gladstone, where I called on the following named men: (Then follows six names.)

They all pledged their support.

Hon. G. Raymond Empson, member of the House of Representatives, Doctor Albert H. Miller, Wilbur W. Gasser, Cashier Gladstone State Savings Bank, and Edward J. Norcus, Cashier of the First National Bank, were out. In fact, the banks were closed, and I am writing these people.

P. J. Lindblad, a grocer, was too busy to talk politics but I think he will be all right. W. J. Jaeger, editor of the Reporter, has taken no sides in the Senatorial matter and promises us an even break.

We stopped at Wells again on our way back, but neither McLean or Kates had returned, so I had to forego meeting them.

Judge Yelland tells me that the principal vote here is the labor vote, which is unusually heavy, and if there is some way to get that we will be all right. McEwen is saying that the State Federation of Labor has endorsed Osborn, which is not correct. A meeting of the Executive Committee of the Federation was held in Port Huron two weeks ago and we succeeded in blocking an endorsement for the time being, and the matter will be taken up again June 30th, when we hope either to secure the endorsement ourselves, or prevent anyone else from doing so. Mr. Rushton told me privately that the boys were all for Osborn and that I must not be deceived by any cordiality of greeting. The Judge says we will have to do some good work here, and I think he is right.

He will handle our petitions, and we could not have a better man. He is an old war horse and has been in many fights, but is still the strong man of the county. Repeatedly men have said to me, "If you get the Judge you can count on me."

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT NO. 53-n.

Enroute—May 15th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander:

CHIPPEWA COUNTY.

Out of deference to Mr. Osborn I did not go into Chippewa County, although, theoretically, we would be justified in doing so because he has invaded Wayne, has a manager there, etc. As a matter of fact, however, the two counties are not comparable and to form an organization in a small city against the leading citizen of the county is asking a good deal of its membership, so, for the present at least, if it meets with your approval, I thought we would not attempt to have a committee in Chippewa.

There are a great many people there who will not vote for Osborn and we will quietly set to work to get them interested in you.

I telephoned from Newberry to Herbert L. Parsille, former County Clerk, who is strongly anti-Osborn, and he came out on the evening train and went as far as Manistique with me. We discussed the situation in the Soo and throughout the county. Hon. James T. Bennett, former member of the Legislature, and present Auditor of the Republican State Senatorial Committee, is opposed to Osborn, also I am told that Hon. Sherman T. Handy, formerly member of the House, ex-Mayor and prominent attorney is against him. Dr. Bohn at Newberry gave me the names of Dr. G. J. Dickinson, Hon. W. M. Snell, ex-Probate Judge, as being anti-Osborn. At Manistique I met M. M. Lormoth, an attorney, who is opposed to Osborn.

Mr. Parsille gave me the following names and I am writing letters:

Dr. J. A. Cameron,
A. W. Taylor,
Pickford.
James Curley,
William E. Drake,
Kinross.
H. A. Osborn, Sault Ste. Marie, R. F. D. 2,
David Knox, " " " "

Mr. Parsille says there is any number of people the
who will undoubtedly vote against the ex-Governor a
he agrees with me that it is better politics not to try
form an open organization.

Sincerely yours,

Paul H. King.

DEF. EX. 53-o

Enroute, May 15th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.
My dear Commander:

MENOMINEE COUNTY.

I arrived in Menominee Saturday evening at 10
o'clock and was met at the train by Roger M. Andrews.

Sunday forenoon I spent with Andrews going over wi
him the situation in the Upper Peninsula, carefully
viewing my reports. We agreed fully as to the conditi
in each county.

Sunday afternoon we got out some mail.

Monday I met Charles C. Hansen, former County Cle
and very active politically in the county. A. J. Bushe
a warm supporter, Hon. J. W. Wells, one of the well-
do and influential men of the Upper Peninsula, Jo
O'Hara, Prosecuting Attorney, Jules Duquaine, Coun
Treasurer, C. L. Hansen, possible candidate for Coun
Clerk, Hon. William F. Waite, Judge of the Municip
Court, and E. J. Ellenwood, partner of C. C. Hansen
the insurance business, and all of whom are strong su
porters.

I also met Louis Dobeas of Ingalls, Robert G. Tetro
Stephenson (who, by the way, came over to Escanaba
meet me) Professor Oscar Ahola, director of the Dagge
military band. Dobeas is a close friend of Mr. Andrew
and Tetro is the organizer of the Mystic Workers of t
World, a fraternal organization. He gets all through th
part of the Peninsula in his work and meets a good mat
people. He has done a good deal of work for Mark
McKee, my partner, in organizing lodges of Americ
Yeomen, and can do us considerable good. Ahola did n
commit himself, but Roger says he is all right. I w

also introduced to Hon. Michael Doyle, the Mayor, who is a democrat. He says he greatly admired you.

At noon I addressed the American Club, which is the Commercial club re-organized along patriotic lines. There were about seventy-five or eighty of the leading business men of the city present. I met a great many of them personally, among whom were F. J. Trudell, one of the leading attorneys, Dr. W. R. Hicks, Edward Daniell, O. F. Dailey, Carl A. Anderson, County Clerk, John L. Silvernale, Supt. of Schools, Harry Roper, Fred M. Prescott, Charles E. Van Duzer, Chief of Police, Colonel Fred S. Norcross, W. B. Gregory and T. H. Law. Mr. Trudell is strongly anti-Osborn; Mr. Daniell is one of the signers of the original petition asking you to become a candidate. The others did not express themselves.

Others who were at the meeting, but whom I did not meet personally, were F. X. St. Peter, William W. Harmon, E. P. Smith, Dr. D. M. Wilcox, Howard Nadeau, Leon G. Sivout, Fred J. DeBrucq, Phillip Harter and William Simpson.

The Herald-Leader, Roger's paper, came out in the afternoon with fine publicity. I am enclosing herewith a clipping. You will note that this appears in three different columns on the front page. I spoke to Roger about not having anything in the other four columns and he duly apologized.

In the evening I was drafted to talk over at the Opera House, and addressed, I should say, about six hundred people there. Politics being barred from the American Club, as well as at the patriotic meeting, I talked about something else, of course, but most everybody knew why I was in the city.

On the staff of the Herald-Ledger I met H. A. Perry, the Editor, B. W. Donnell, advertising manager, and Robert G. Murphy, Jr., the city editor. They are certainly fine fellows and are good friends.

Menominee County is one to count on and we may look for a fine vote there.

I left at 10:59 P. M. for home by way of Chicago.

Sincerely yours,

Paul.

PHK:S

DEFENDANT'S EXHIBIT 53-p

May 16th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.
My dear Commander:

SUMMARY OF UPPER PENINSULA SITUATION.

For your information, I am giving you a summary of my northern trip.

It has consumed fourteen days, exclusive of Sundays, and I covered fourteen counties, actually visiting thirteen, and made calls in 25 cities and towns of the Peninsula. I traveled 2,115 miles, of which 206 were by auto. I must have met and talked with about 300 men. Made three addresses, all of which were non-political, but which were made under conditions which could not but help.

I did not give out any interviews for the newspapers, until I reached Escanaba, which was almost the close of the trip, and there only to avoid the re-use of the story in the Marquette Mining Journal which was not authorized and which I did not like. The Escanaba Mirror used my interview in full, giving it preferred position. The Press also used a story verbatim. I will get these clippings for you.

There are only three papers in the Upper Peninsula which are for Osborn, one of them being his own and the other two in Iron County, the Diamond Drill and the Iron River-Stambaugh Reporter. The reason for the attitude of both the latter I have already given in my report on that county. I am particularly glad about the position of the Marquette Mining Journal which will give you equal consideration with any one else. I am hoping that ultimately it may be for you. Among the papers which are with us are the Houghton-Mining Gazette, Calumet News, Iron Mountain Press, the Sentinel and Upper Peninsula Farmer of L'Anse, the News and Cloverland Farmer of Munising, the Iron Ore of Ishpeming, Newberry News, Pioneer-Tribune and Courier-Record of Manistique, Escanaba Morning Press and the Menominee-Herald Leader. I think we may fully depend on the Ironwood-News-Record, the Republican-News of St. Ignace, the Mar-

quette Chronicle and the Cloverland Press of Ewen, Ontonagon County. We may possibly get the Escanaba Journal, although it is said in some quarters that we will be better off without it. However, I want all I can get, of course.

The following will give us an even break: Escanaba Mirror, Iron Mountain Tribune Gazette, Ironwood Times, Lake Linden Native Copper Times, and the Marquette Mining Journal.

This makes a pretty good showing, I think, from the newspaper standpoint. The list includes practically all the important newspapers in the Upper Peninsula printed in English.

As I size up the situation, from a comparative hasty survey, I would estimate that from present indications we will carry the counties of Baraga, Ontonagon, Houghton, Keweenaw, Marquette, Alger, Luce, Mackinac and Menominee. That we will lose the counties of Iron, Gogebic, Chippewa and possibly Dickinson; and that we will split even in Schoolcraft and Delta.

We will go after the unfavorable and doubtful counties as hard as we know how and do all we can with them. As between ourselves and Mr. Osborn I think we will carry the Peninsula on a basis of about two to one, assuming, however, that we will put up the kind of a campaign we are planning on and the field is left as it is.

Sincerely,

Paul.

PS. This letter was dictated enroute to Detroit and not written until today.

DEFENDANT'S EXHIBIT NO. 53-S.

May 18, 1918.

My dear Paul:

I want to acknowledge the receipt of your letters as follows: May 7th, 9th, 10th, 11th (2), 15th (2) and 16th (2), all of which give me a most comprehensive view of the hard work you have been doing in the Northern Peninsula, and if you have occasion to refer to any one in there, if you refer to them either by counties or by the dates of your letters, I will be able to get to the details at once.

In regard to your note of the 13th. I have written Dr.

Lyman that I will take pleasure in doing my best to see that the papers referred to reach Colonel Roosevelt in person.

Your letter of the 11th was particularly interesting because it takes up some matters that I have written you about and clears up several matters on which I did not know that you were fully informed. I refer particularly to Mr. Barbour, Mr. Dwyer and George Miller.

I have had a frightfully busy week and this will continue for some time to come, all of which makes me feel that I am not half helping you the way I should, although I do not know that my advice is of much use at long range.

I am still waiting to hear from you or Mr. Templeton concerning my correspondence with Mr. Gray and Alex Groesbeck.

I have just read over again your letter of the 16th giving me a summary of your whole trip and once more offer my congratulations on the results.

I think the newspaper support is remarkably satisfactory considering everything, and continue to hope with you for an increase in our strength and general tactical situation.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

DEFENDANT'S EXHIBIT NO. 53-T.

May 18th, 1918.

My dear Commander:

This has been a busy day—in fact, every day since my return has been a busy one. The procession of callers at the office is simply a never ending one. I sometimes think I will have to take up my headquarters in some lonely spot on Grosse Isle or somewhere else, in order to get anything done that really counts; but these people all have to be seen and talked to and visited with and I presume in the long run it is as effective work as anything I could do.

I spent the afternoon with the Chairman of the Republican State Central Committee, John Mangum, and discussed with him my Upper Peninsula trip. He gave

me some very valuable pointers and will help any place he can.

This morning I had a long visit with Milton Oakman and he tells me that everything is going well here.

You have doubtless seen the press clippings relative to Mr. Ford and Mr. Warner. According to them Mr. Ford is not saying a thing, but his political friends, who, by the way, are entirely unknown, are circulating petitions, and Mr. Warner will make an announcement of his candidacy about the first of the month. Let them come. I think we shall be able to give a good account of ourselves, no matter how many enter. Warner's candidacy will probably help as much as it will hurt and maybe more. Mr. Ford, can, I think, be effectively dealt with.

Yesterday afternoon I spent with Richard H. Fletcher, State Labor Commissioner, who is certainly doing Yeoman service. He is simply going "sled-length" and is doing some mighty good work. You might write him a personal letter, if you will. His address is Lansing.

I am returning herewith Col. Roosevelt's letters, which I thought had been sent you before this time, but which were held here until my return, through a misunderstanding. I am also enclosing a set of letters which I have finally O. K.'d. These are to be prepared here, signed in your name and forwarded to New York for mailing, as we talked. I hope they meet with your approval. It is somewhat difficult to get up twenty letters on the same subject and have them all good. Please make any changes in them that occur to you and let me have them back as early as convenient, as I wish to begin to send them out the first of next month.

I am chairman of Division "B" in the Detroit Patriotic Fund Drive, which begins Monday. There are ten of these divisions and I have a force of nearly three hundred men and women under me. I accepted this position not only because of the merit of the proposition, but for the reason that I thought it a good thing to do from other standpoints. Forgetting the fact that I spent practically all of last year in patriotic work, some of my friends, I understand, are somewhat critical because I have taken up political work. This may help to make them feel better about it. So far as I am personally concerned, I do not care for this criticism, because my record speaks for

itself, but I would regret any ill effect on the campaign of this sort of talk.

I do not know what to say about the Detroit News. I understand that George Booth is in direct control and it may be that the proper thing to do is for Allan and me to have a talk with him. If you think that this will not offend Mr. Miller, we will do it.

I am not surprised that Mr. Groesbeck says he knows nothing about the Holmes matter. This is quite characteristic of him. I do not imagine that there will be any further trouble with Mr. Gray, as you have very effectively replied to his letter.

Next week I will have to spend quite a good deal of time on the Red Cross Drive, but will keep things going. All of our field men have been instructed not to do any active work, except in counties where there is no campaign. I presume that we should all get together again soon and settle some of the pending questions, notably that of the platform. Everything is going well. We have our troubles, of course, but are meeting them as they come along.

With kindest regards, I remain,

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT NO. 53-V.

May 20, 1918.

My dear Paul:

Replying to your letter of May 18th, I will have to look over the proposed forms of letters and if there are any minor changes that will make them seem more like the letters I would write myself, I will make them in pencil.

The whole tone of your letter is more optimistic than anything that I have had in some weeks, and it has quite cheered me up for I have been unusually busy and may be a little tired, and had gathered an impression, probably borne in my imagination, that the situation was not improving as fast as you would like to have it. However, your indifference in regard to Governor Warner or Mr. Ford is most reassuring, and while I would be glad to see Governor Warner a candidate, I do not feel that Mr. Ford's entrance would be at all helpful.

I think you are very wise about putting the "soft pedal" on all political activities during the Red Cross week, and

it is fine of you to give more of yourself to this patriotic work. I realize how much you have done before, but as you say, for that very reason people will expect you to be prominent on all of these important occasions in the future.

I think I wrote you that Mr. Will Barbour was going to talk with George Booth and I suggest that you get in communication with the former before communicating direct. I think with you that George Miller might feel slighted if you tried to go over his head.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

DEFENDANT'S EXHIBIT NO. 53-W.

May 23, 1918.

My dear Paul:

I return herewith the draft letters with a few notations. Please be assured that these were made with no intent to criticize, and only as a suggestion.

When you finally settle on the forms, please send me an index descriptive of the people to whom the various letters are intended to be sent, together with clean copies of the forms you finally decide to use.

If in your opinion I should, by the use of these letters, now declare myself to be a candidate under the primary law, would it not terminate our present plan of publicity?

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

DEFENDANT'S EXHIBIT NO. 53-X.

May 20th, 1918.

My dear Commander:

Allan and I are working on an arrangement with former Congressman Lindquist, of Greenville, who made a spectacular campaign for Congress a few years ago in the old 11th District. He styled himself "The Man From Michigan." His method of procedure was along mail

order lines and he certainly cleaned up the votes in the most approved fashion. He has now a mailing list of upwards of 100,000 names of active men all over the state, and we are going to have him get busy with it. He needs an expression from you, however, as a basis for his circulars. His hobby is pure merchandise. Of course, everybody is for pure merchandise. He made his successful campaign on the issue of pure cloth—no shoddy goods. Undoubtedly, pure merchandise will be just as much of an issue and attract as much attention, ultimately—at least this is his view—as the matter of pure food, and will be the subject of just as stringent regulation.

I wish you would please write him your views, or send them to me if you prefer, and I will see that he gets them.

Sincerely yours,

Paul.

Lieutenant-Commander Truman H. Newberry,
P. O. B. No. 908,
New York, N. Y.

DEFENDANT'S EXHIBIT NO. 53-Y.

May 22, 1918.

My dear Paul:

I am much interested in the details of the plans that you are making with ex-congressman Lindquist, as I have read about him on two or three occasions in which his methods of publicity were described as being most successful.

I think I should know a little more about what you are proposing to do and particularly on what subject you wish me to write him my opinion or views. Does he desire to originate some catch phrase or does he want an essay on present problems and possible future developments thereof? It would not seem difficult to coin some expression as a "war cry" about pure cloth and pure food to be applied to a political campaign. Please give me a little more light on the subject and I will be glad to write him direct and send the letter through you, or write him direct and send you a copy thereof and hold the original here until you telegraph that you have nothing further to suggest.

Mr. John Ford was in here yesterday and told me that he was reliably assured that Mr. Henry Ford would not become a candidate, but would probably wait until the

last minute before announcing his decision in the matter. I do not agree with this view at all because I believe that Henry will take the nomination by default just as he did before.

Sincerely yours,
Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building.
Detroit, Michigan.

DEF. EX. 53-dd.

May 30th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.
My dear Commander:

Arthur Vandenberg was here the other day and I had a long talk with him, which I will tell you about when I see you Sunday. He is not with us and I cannot think that he will be, although I gave him some things to think about.

We are making good progress, I think, and the preliminary organizations in the counties are practically complete. Although we have worked hard it has been difficult to perfect these because of conditions,—people have been slow to tie up. There has been little or no interest in political matters on account of the war, and the continued threatening of other candidates to get in has held a good many counties open. Of course we could find people in these counties to take up the work, but in many cases they would be lesser lights and we want to get the principal workers, if possible. I refer to such counties as Genesee, where there are three factions,—the Stewart crowd who are for Osborn, the Freeman-Brownell group who are for Warner, and the Court House bunch, so-called, who have taken no sides.

We have lined up a number of the smallest workers who are already busy, and yet have not placed anyone in charge.

Gratiot County has been somewhat difficult to organize, and we have just gotten into shape with a good organization composed of both the old line and the new workers.

Clinton County has been slow also, on account of the

attitude of Secretary of State Vaughan and William M. Smith, Chairman of the Industrial Accident Board. The former is a candidate for re-election and I think does not desire to stir up any opposition for himself, while Smith has not been greatly interested. It is coming along all right, however, because they are both favorable inclined, particularly Vaughan who is the principal factor there.

Another slow county has been Eaton, Doctor J. B. Bradley was the first man to write me but the slowest to get into action.

Ingham is another county which is giving us trouble. This county has the reputation of holding off and is maintaining its reputation at this time.

Oakland County is Fred Warner's county, and on account of his see-sawing around the leaders have not been able to tell what to do, but they are getting impatient and he cannot hold them much longer. I understand Mr. Warner now says he will make an announcement the 10th. Every little while he makes a statement postponing his announcement for about ten days, and this is getting to be a matter of comment, strengthening the impression that he will eventually decide not to run.

I am going to clean up on all of these counties next week. We have good men in each county who will be with us, and it is merely a question of getting them together. I will take them in their order, one after the other, and close up. When I come down I will bring a detailed report on each county.

We have got things going in Roscommon County, which is a little county, of course, but still has to be taken care of.

I have had especially good reports today from Saginaw County, where we have a splendid organization, St. Clair, which will be among the first to announce its organization, Shiawassee, which is doing splendidly, and from Kalamazoo, Bay, Alcona, Montmorency, Isabella, Missaukee, Cass, Calhoun, Houghton and Keweenaw.

I am going to be in Battle Creek Friday and perfect the organization there.

Sunder I would like to discuss with you the matter of a platform. I am inclined to think that some statement should be made; possibly it can be much briefer than the one we contemplated, and largely confined to a "win the war" proposition. Also we might discuss the Lindquist

matter, which appeals to both Allan and myself as being a good thing.

Our Polish worker suggests that if something could be said by you in favor of a free Poland it would help his work immensely. I have no doubt that you are for a free and united Poland. I am enclosing herewith your record in Polish, which I trust you will read carefully.

The Brotherhood of Railway Trainmen would like an expression from you as to your attitude on labor. I am emclosing herewith correspondence I have had on the subject, which I hope you will think is all right. They naturally want something from you, however, and we can frame it up Sunday.

With best wishes, I remain

Sincerely yours,

Paul.

PHK.S.

The Colonel's speech at the Board of Commerce was certainly a "corker." I had a stenographer there who got the most of what he said of especial interest to us. The applause drowned out some of it, but you can get the drift. He couldn't have said anything which would have been of greater help right now.

P."

DEFENDANT'S EXHIBIT NO. 53-hh.

June 5, 1918.

My dear Paul:

On re-reading your letter of the 30th there are some matters mentioned that we did not definitely decide.

First, the question of a platform, which I agree with you should be given out more as an informal statement than as an old-time platform of the bromidic type, and in this kind of a statement any platitude about the Freedom of Poland would look foolish. Half of Poland is for Germany and the other half was fighting for Russia, I am strongly in favor of a Free Poland if they will stop fighting with our enemy.

Your correspondence with Mr. Rhoads I think is excellent, and I do not know how I could add anything to it of any value. If Mr. Rhoads or any of his labor associates are interested in how I feel, they can easily find out by what I have done. During the four years or more

that I was Assistant Secretary and Secretary of the Navy, I had personal charge of all Navy Yards, which included the fixing of the wages and promotion and demotion of employees, and had the general handling of about 40,000 employees as regards to industrial conditions, representing almost every known trade, and in doing this almost daily and certainly weekly, met the elected representatives of these various trades who were attached to Mr. Gompers' headquarters at Washington, and I refer to these leaders in the industrial world as to my constant interest and effort to be fair and just to my Government, whom I directly represented, and to the civilian employees, whom I felt I represented, and as far as I know did it with some degree of satisfaction.

If Mr. Rhoads will let me know what the "labor legislation" is, referred to on the top of page 2 in his letter to you of April 22nd, I shall be glad to definitely state my attitude thereon.

Sincerely yours,

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

DEF. EX. 53-II

ALCONA:

Hon. George W. Burt, Harrisville, Chairman, and R. E. Prescott, Lincoln, Secretary. This county is completely organized, having chairman and vice-chairman in each township and incorporated village. They are arranging for a complete follow-up campaign. The outlook here is promising. We have received a list of voters from the County Clerk and are ready to go ahead with our mailing program. There is no question but what this county will go for Mr. Newberry—barring Mr. Ford's entry.

ALGER:

H. S. Jennings, Munising, Chairman, G. Sherman Collins, Munising, Secretary. The Chairman reports that he is looking the ground over quietly before forming his organization, which he wants to have made up of the supervisors, and they can act as Chairman of their respective townships. He states that he has so far met with but one refusal, and that it is a little early in the contest to do too much, but feels that he is getting a strong organization which cannot help but bring results. Petitions are now in circulation there under his direction and will be returned at an early date.

ALLEGAN:

Hon. L. L. THOMPSON, Allegan, Chairman. Mr. Floyd reports under date of the 20th that Judge Thompson is personally so popular and has so much strength in every part of the county, that the campaign is perfectly safe in his hands. The Judge, himself, states that we will get out a good vote. Owing to certain local conditions, he thinks it not advisable to put up the same kind of an organization that we have in other counties. The petitions are in circulation and several have been received back signed by the leading workers of the county.

ALPENA:

Alex C. Green, Alpena, Chairman,—August Kelly, Alpena, Secretary. This organization has been perfected into township

units. Our petitions are in circulation and several of them have come back which carry the signatures of ninety per cent of the county and city officials, and probably seventy-five per cent of the leading business men of that county.

ANTRIM:

James Deevey, Bellaire, Chairman. The organization is under way and has been going slow for the reason that he wishes to get all factions united. Our chairman has the support of representative men of the county, and associated with him is Judge Harris, who is considered a very strong man throughout the entire north western section. There is no question that we will be able to make a very strong fight, notwithstanding the fact that Mr. Osborn is well and favorably known here. Our Chairman reports that after making a trip over the county, he finds that Mr. Newberry is better known than he had imagined, but that should more candidates come in it would require a great deal more work, and we should go the limit and win out.

ARENAC:

Hon. John W. Dunn, Standish, Chairman,—G. H. Glazure, Standish, Secretary. A permanent organization is being perfected, and the Judge says we can carry the county "against anybody except Ford." Petitions are coming back from this county showing a good class of sig-

natures. Mr. Osborn has made a great many patriotic speeches in this section.

BARAGA:

Hubert A. Brennan, L'Anse, Chairman, — An organization has not been perfected, and it will probably not be developed into the same kind of an organization as other counties will have. Conditions here are different and we have the man with us who is in a position to "deliver the goods," namely— Wick O'Connel. O'Connel's influence is not by any means confined to Baraga County, and he is a valuable addition to our working force. The mill men in the county are with us and also the local papers. There seems to be no Osborn sentiment here, and, in fact, I feel that we will be strong in this county.

BARRY:

A. A. Anderson, Hastings, Chairman. He will select his Secretary in a few days. Mr. Anderson is very busy with war activities, but will see that everything is right. Mr. Floyd's visit there convinces him that Mr. Anderson is the right man. Hon. W. W. Potter will be with us there, and while Will Cook, one of the editors of the "Banner" is a personal friend of Mr. Osborn's, he will not do us any harm during the campaign. The outlook in Barry County is good. Our petitions are in circulation and are coming in very nicely.

BAY:

Homer E. Buck, Bay City, Chairman. The former manager of the Bull Moose Campaign—a man of action and personal magnetism. The secretary has not as yet been appointed. In this county we have the friendship of Richard Fletcher and through his assistance good work is being done. We are securing a large amount of publicity for Mr. Newberry, and there is no question but what we are in good shape in this county. Our petitions are coming in nicely, all showing a large percentage of the leaders to be with us.

BENZIE:

Ed. M. Dixon, Thompsonville, Chairman. The organization which Mr. Dixon is building up in Benzie County has won the commendation of men like Judge Harris and Senator Tufts. The result which we will get in this county shows the careful and conscientious work that is going on.

BERRIEN:

A. H. Burger, Benton Harbor, Manager. This county is in a very peculiar situation and has required a lot of careful work to get it in shape. Mr. Floyd is devoting his personal attention to it. The petitions are now in circulation and a few have come back well signed. Mr. Newberry is practically unknown here and there is a lot of Osborn sentiment.

BRANCH:

B. B. Gorman, Coldwater, Chairman. He desires that he be left to handle the campaign along his own lines, and on account of his previous experience, he is qualified and competent to handle the work. He will be assisted by Glenn Cowell and other prominent men. Prospects good.

CALHOUN:

Thomas Bigger, Marshall, Chairman. A preliminary organization was perfected in this county at a meeting held on May 31st, attended by Mr. King and Mr. McGregor. Fourteen prominent men of the county were present and a complete organization will be effected at an early date. Battle Creek being a large manufacturing town, arrangements will be made to further our factory league as in other cities. The outlook here is especially good. We have a committee of three on permanent organizations composed of Thomas Bigger, John Sallows, a laboring man, and attorney B. J. Onen.

CASS:

Carl Mosier, Dowagiac, Chairman, E. Bruce Laing, Dowagiac, Secretary. The situation in Cass County is favorable. A great many support cards have been received. This is my former home. The county will undoubtedly go for Newberry.

CHARLEVOIX:

Hon. J. M. Harris, Charlevoix, Chairman. This is the Judge's

own county, and he is in a position to work it out along his own lines and ideas, and we are confident that he will secure the desired results. We feel that the outlook here is good.

CHEBOYGAN:

We are breaking into Cheboygan this week and will form an organization which will include Hon. Samuel J. Smith of Mackinaw City and H. T. Glezen, Cashier of the Cheboygan State Bank. Mr. Osborn is very strong in this county at present.

CHIPPEWA:

Mr. Osborn's home county. Ex-County Clerk Parsille and ex-Representative James Bennett have been doing a little quiet work. Our friend Wick O'Connel is very strong in Chippewa County, and it is believed that with the right co-operation he can go in there and do good work backed up by an extensive circularization through the mails.

CLARE:

C. O. Reading, of Clare, will be the Secretary, and he is a strong man in the county,—belonging to the younger generation. He is Chairman of the Republican Committee and Prosecutor, and known as a good organizer and worker. This is a very strong Warner county, with practically all of the leaders with him. Mr. Newberry will be second choice with all of the Warner men.

CLINTON:

Mr. Ed. Fehling, County Prosecutor, is the man to handle this

county for us. He has his own organization and is in close touch with Mr. Vaughan, Secretary of State, and he has Mr. Vaughan's permissioa to use his organization in connection with his own, which would give us more than fifty-fifty in th.s county. Vaughan is a very strong man there, and his support is absolutely essential and necessary if we carry the county. The arrangement with Mr. Fehling has not been definitely perfected.

CRAWFORD:

No organization has been perfected in Crawford County, but Mr. Emery, of our office, will go into that section of the state on the 3rd and complete the organization, which we hope to have backed up by the Hansons, who are the big men of this section. In fact, it is absolutely necessary to have their support if we expect to have this county. While the number of votes which Crawford County carries is small, it has an influence on adjoining counties. Esbern Hanson, son of one of the elder Hansons, is circulating our petition.

DELTA:

Hon. Judd Yelland, Escanaba, one of the signers of the petition asking you to become a candidate, is handling our petitions there. He is, as you are doubtless aware, very strong in the county. The labor vote here in this county is especially heavy and we will try our best to get it. We will do well to carry the county.

DICKINSON:

We have friends in Dickinson County, and although no permanent organization has been perfected, we feel that things are in good shape there. There is a great deal of Osborn sentiment. O. C. Davidson of the Oliver Mining Company is for Osborn. We hope to carry the county, but it will be a tough one.

EATON:

Hon. J. B. Bradley of Eaton Rapids, former Auditor General, is for us, and is the one man who can, through his personal magnetism, line up the several factions. He has promised a good deal but hasn't done anything yet, and I am going there this week.

EMMETT:

Hon. W. S. Mesick, Petoskey, Chairman,—M. A. Barber, Petoskey, Secretary. Mr. Floyd, Senator Tufts and Judge Harris all report that the organization which we are perfecting in this county will be one of the best which could possibly be put up. The Congressman's prestige, coupled with the energy and ability of Mr. Barber and his friends, is one of the best combinations which could be secured here. This is a strong Osborn county, but we got some good petitions.

GENESEE:

Conditions in Genesee County are somewhat improved since my last report. We are breaking into the several factions in

Flint and have secured a live wire in the person of W. L. Johnson, Township Clerk of Fenton Township, who will work out an organization in the townships. Mr. Fletcher, who is especially strong in this county, is co-operating with us in the factory organization, and it is thought by organizing the factories first and then expanding, we can produce better results. This is a hard county. The Freeman-Brownell people are for Mr. Warner and the Stewart-McKeigan crowd for Osborn.

GLADWIN:

No organization has been perfected in Gladwin County. Our friends in Bay say that at the right time they can go in and perfect an organization which will carry the county. While this county is not very large, at the same time it is desirable to retain it in the proper column. It is an Osborn county as it now stands.

GOGEBIC:

Hon. C. E. Houk, Ironwood, Chairman. No organizations has been perfected in this county, but the matter is being given attention and will be taken care of at the right time. This is a hard county for us, but we hope to make a good break-in. Mr. Houk is Cashier of the Merchants & Miners Bank. Mr. Robert A. Douglas of the "Ironwood News Record" is very friendly and suggested Mr.

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Houk as Chairman. Mr. Houk's son, Dudley C. Houk, is circulating our petitions.

GRAND TRAVERSE:

Parm C. Gilbert, Traverse City, Chairman,—Elmer E. White, Traverse City, Secretary. This county has nearly secured its permanent committee, including men who have heretofore been separated by factional fights. This county is in good shape and is going along nicely. Mr.Gilbert is a prominent attorney and Mr. White, County Clerk and Secretary of the Republican County Committee.

GRATIOT:

Hon.A.B. Darragh, Ex-Congressman, and one of the leaders of Gratiot County, will act as Chairman, taking upon himself as much work as his seventy-five years will allow. He will have with him his organization, and a man will step into his shoes when he gives up the leadership,—namely, A.F.Crawford, of Breckenridge. Gaylord Nelson, now County Treasurer, and one of the most popular of the younger set, will act as vice-chairman and will relieve Mr. Darragh of the details. Mr. Webb McCall will be Secretary. We will also have with us W. O. Watson of Breckenridge, Charles Brown of Alma, and George Sharrar, who have now ten men working in the factories with petitions. A fine arrangement, we feel, and we have no doubt but what we will carry this county.

HILLSDALE:

Hon. Victor Hawkins, of Jonesville, is at work on his organization. He is in to win and a meeting has been called for the 4th of this month to make up the permanent organization. Petitions are now in circulation and prospects are good. No Osborn sentiment, but Warner has considerable strength.

HOUGHTON:

James T.Fisher, of Laurium, is Chairman and this county is considered to be Newberry territory. I found a great deal of support throughout the county and the organization which Mr. Fisher will make will be one of the strongest in any county in the state. There was no Osborn sentiment when I was there, but he has been there since for a speech and doubtless made some friends.

HURON:

A strong organization has practically been completed in Huron County, including Paul Woodworth, brother of the State Dairy and Food Commissioner. The influence of Governor Sleeper is, of course, very strong here. Mr. Woodworth will act as Secretary and the Chairman will be Charles B. Morden of Bad Axe, former head of the Bull Moosers in this county. There is a great deal of feeling against Warner on account of the part he took in the Leland campaign. The outlook in Huron is good.

INGHAM.

The situation in Ingham County is the same as it has been for the past month, there being no new developments, everything awaiting the announcement of ex-Governor Warner. We have a great many friends there, including Doctor W. T. Shaw, of the State Insurance Department, Clarence E. Holmes, Superintendent of the School for the Blind, S. S. Riley, an active party leader, and Harvey O. Cline, Sheriff. I am visiting the county next week to perfect the organizations.

IONIA:

The situation in this county is one of improvement, the organization being as noted in my former report, that is, Hon. Frank C. Miller, Chairman and R. A. Caldwell, Ionia, Secretary. The township organizations are practically completed. The sentiment in the county is about even between the three candidates, Osborn, Warner, and Newberry, the latter being only on account of the organization work which is now going on.

IOSCO:

James E. Dillon, Tawas City, Chairman, Waldo I. Curry, East Tawas, Secretary. The full county committee of twenty-nine members is hard at work and we are receiving encouraging reports.

IRON:

This is very much Osborn, both of the local papers being for him on account of old personal asso-

ciation. The county officers, of course, will not line up at this time as a great many of them are seeking re-election and want to know just which way the wind will blow. The mine men are with us here, headed by Capt. W. J. Richards, and we can count upon him to help all he can to counteract the Osborn influence. This is our weakest spot in the state.

ISABELLA:

John S. Weidman, Mt. Pleasant, Chairman, and Floyd Mitchell, Weidman, Secretary, E. J. McCall, Editor, and Frank E. Morrison, School Commissioner, are really the powers behind the throne. Our people started out this week to organize the county and have a man in each township and voting precinct and will be all set for the drive about the tenth of June. Previous reports have stated Isabella County outlook to be good, and feeling that we have all factions united, there should be no reason why we should not carry this county.

JACKSON:

Mr. A. D. McBirney, Jackson, Chairman, and Hon. C. J. Deland, Jackson, Secretary. Associated with them is the Ryan and Riley group. This organization should and will carry Jackson County for Mr. Newberry, and we have already written letters to over three thousand republican voters of that county and received back a great many pledges of support.

KALAMAZOO:

Hon. Charles Farrell, Kalam
zoo, is Chairman, and Harris
Merrill, Kalamazoo, is Secretar
They are handling things
very good shape. Clark Ma
Kenzie will do some supplem
tal work in this county. Th
promise us a victory there, b
it is a difficult county and ha
to forecast accurately."

KALKASKA:

E. C. Smith, Kalkaska, Chai
man, and Joshua Boyd, Ka
kaska, Secretary. Dr. E.
Babcock received the origin
set of petitions for this coun
but evidently they were not ci
culated as we have not receiv
any back at this office. M
Smith and Mr. Boyd are goi
ahead in good shape, being a
sisted in their organization wo
by Judge Harris and Senat
Tufts. There is a great deal
factional feeling in this coun
which is being gradually ove
come.

KENT:

Representative Geo. W. Wels
is in charge of the Kent Count
work, under Mr. Floyd, and hav
ing the assistance of our Mr.
B. Haskins, A. K. Moore an
other field men from time
time as the circumstances re
quire. Western Michigan is an
tagonistic to anything Detroi
wants. Ex-Congressman Lind
quist can help. Ex-Governo
Warner has a good many friend
and Osborn is strong. This i
our battle ground.

KEWEENAW:

County petitions are being handled by Abner Crebassa, of Ahmeek, son of Judge Crebassa of L'Anse, and a very popular fellow, and very active politically. He has a county organization under way. We will carry the county.

LAKE:

Dr. Earl Fairbanks of Luther, Chairman, and Herbert W. Davis, Baldwin, Secretary. This is the strongest organization which could possibly be put into this county and we will also have Representative Frank Smith, one of the live wires there to work with us. From reports which we receive from field men and outside, Lake County will give us a very fine vote and is in the safe column.

LAPEER:

George Carrigan of Lapeer, Chairman, and Mel Deo, North Branch, Secretary, as strong an organization as could be put in this county. It has no strong leaders, and is considerably split up. We should make a good showing, however.

LEELANAU:

Hon. Martin Brown, Judge of Probate, Leland, is Manager of this County. It will be for us.

LEENAWEE:

Fred C. Acker, Adrian, Chairman, and Glenn L. Williams, Adrian, Secretary. The organization in this county is nearly completed and we are getting a fine lot of petitions returned. We have received support let-

ters from practically all the leaders. Prospects are good.

LIVINGSTON:

Hugh A. McPherson of Howell, is our manager. He is the one man who is in a position to carry the county. He is head of the State Masons and a very popular man. He has workers in every township. We are safe in this county.

LUCE:

Luce is practically Newberry, there being but one man found in the county up to date who is outspoken for Mr. Osborn. The family name, Newberry, means a great deal in this county and "if for no other reason", Dr. F. D. Bohn states, "the county will be ninety-five per cent 'Newberry.'"

MACKINAC:

Robert H. Benjamin, Sheriff, and the strongest man in the county, is circulating petitions. We should carry the county.

MACOMB:

William T. Hosner, of Romeo, Chairman, and Geo. John of Mt. Clemens, Secretary, the two men who are in a position to form an organization that will carry the county, are in charge. Mr. Hosner is known as the strongest man in the county, and Mr. John, Justice of the Peace, the strongest of the younger men. Offices of the committee will be located in Mr. John's office, at Mt. Clemens, and petitions and literature are being distributed. This county looks good.

MANISTEE:

August Field, Chairman, and Charles N. Belcher, Secretary, both of Manistee, is the strongest organization which any candidate could have in this county. Lined up with them is Dick Hoffman, a power in local politics and there is no question that Manistee County will have a big majority in favor of Mr. Newberry.

MARQUETTE:

Myron J. Sherwood, Marquette, is handling our petitions and promises a strong organization there. We have many friends there, including M. M. Duncan, who are active in our behalf and will give a good account of themselves. We should carry Marquette.

MASON:

K. B. Matthews of Ludington, Chairman, and W. E. Blake of Scottville, Secretary. The organization is practically complete, with the assistance of Mr. McLean and Senator Tufts, our two field men, and Chairman Pratt of the Board of Supervisors. Mr. Pratt is in a position, of course, to help with the members of the Board of Supervisors and has already done so, and they will eventually meet as members of the Committee from the several townships.

MECOSTA:

Ed. Dresser of Big Rapids, Chairman, and George E. Hurst of Big Rapids, Secretary. The reports from this county are good. Our Mr. Haskins will

spend some time in the county to help complete the organization.

MENOMINEE:

Roger Andrews is looking after Menominee County, and guarantees it.

MIDLAND:

Midland County is being looked after by Richard Fletcher and his friends and the organization in Bay. There seems to be no question in their minds that they can carry the county. Mr. Fletcher has placed petitions in circulation there and at the proper time our field men will perfect an organization under his direction. Several of the strong men of the county already have pledged their support, as noted in my previous report.

MISSAUKEE:

John Q. Zuck of Lake City, Chairman, Hon. Orville G. Dennis of Lake City, Secretary. Judge Harris has visited this county and states the organization is well under way and that the situation is good.

MONROE:

Sheriff Cronenwett will be at the head of our organization but is too overburdened with draft board work to look after the details. He is the best man in the county and will help us get our organization.

MONTCALM:

E. J. Bowman, Greenville, Manager. He is perfecting an organization along his own lines and is circulating petitions.

Some of these petitions have already been received, showing that a good many of the farmers are already pledging their support, a situation which is most gratifying. We will get a good vote in this county.

MONTMORENCY:

Mr. Foster Cameron, Atlanta, Chairman, and John Knapp, Hillman, Secretary. These two men have, in a very short time taken up the work and have perfected an organization which will, they say, lead to victory. Mr. Robert McQueen will serve in Montmorency Township and George Keagan will take care of Hillman.

MUSKEGON:

Chris. A. Brock, of Muskegon, is Chairman, and Harry Jackson of Muskegon, is Secretary. The situation there has not been up to standard owing to the fact that everyone has been engaged in the local drives, but these are now over. Will Smith, one of the most active men in the county, is assisting in Muskegon City, while Brock will take up the organization in the townships. A lot of work must be done in this county, especially in the townships. No prediction can be made at this time as to the outcome. This has always been an Osborn county.

NEWAYGO:

W. J. Branstrom of Fremont, leading attorney, is Secretary, pending the perfection of a permanent organization which is awaiting my visit to that county

about the middle of June. A great many of the leaders here are leaning towards Osborn but I think we can get them all at work with the Newberry Committee. Petitions are out and in circulation and a considerable amount of work has been done. D. D. Alton, Chairman of the Republican Club, will assist in the organization.

OAKLAND:

A lot of quiet work is being done here by Mr. Fletcher's lieutenants but the latter will rest as to open organization until after Mr. Warner's announcement.

OCEANA:

Gardner T. Sands, of Pentwater, Chairman and W. E. Lewis, of Hart, Secretary. Editor Dayharsh has lined himself up with the committee and we have a fine organization.

OGEMAW:

Nothing new. Mr. Emery of our office, will go there this coming week and try and put in a permanent organization in connection with Mr. Schulty of West Branch who has been handling the petitions. Owing to the severe illness of Mr. B. F. Reed, our field man, this county has not been given attention recently, but it is thought that an organization can be perfected there at once. Judge Sharpe the strong man of the county, is for us.

OSCEOLA:

George A. Glerum of Evart, Chairman. He is perfecting a good organization in spite of

factional fights, and can carry the county if anyone can.

OSCODA:

Alec Bissland, of Mio, Chairman, and Edwin Goodwin, Mio, Secretary. They are hard at work on their organization, petitions are in circulation, and we have received a great many letters from voters in that county pledging support. The papers are with us. This is a Newberry county.

OTSEGO:

Mr. Orwin A. Phelps, Gaylord, Register of Deeds, Manager. An organization will be perfected this coming week at the time of Mr. Emery's visit to northern counties of the lower Peninsula. Mr. Phelps is a strong man and can carry the county.

OTTAWA:

Mr. William M. Connelly, Manager. This is the second hardest county to organize and handle, being affected by the so-called Western Michigan district influence, which cannot be overlooked. Mr. Connelly has ironed out the several differences which exist because of factional fights in the past and no one has been suggested to be better qualified than he. Osborn is naturally strong in this county and should there be a western Michigan candidate might break in some. We have all the leaders there are and will give a good account of ourselves.

PRESQUE ISLE:

Rudolph Dultgen of Rogers City, is the one man who has been

doing active work in Presque Isle and Mr. Emery will visit him about the fifth or sixth of this month to perfect a permanent organization and arrange minor details so that all the factions in the county will be lined up with the purpose of furthering the candidacy of Truman H. Newberry. Quite a few letters pledging support have been received from various parts of the county and we will have a strong organization. Good preliminary work was done here by Senator Tufts.

ROSCOMMON:

Bruce Rutledge, business man and brother of Homer Rutledge, the State Fire Marshall, and Burt Keily, the Register of Deeds and County Clerk, are with us. Mr. Keily was in on the 28th and took back petitions for the county, and Mr. Rutledge came in on the following day. Messrs. Rutledge, Keily and Matheson (the Editor) will carry the county for us.

SAGINAW:

Hon. Clarence Brown, Circuit Judge, Saginaw, Chairman, and Earl J. Davis, Saginaw Secretary. Mr. W. H. Wallace, one of the prominent leaders of Saginaw County, is an Osborn man for personal reasons, also his brother John, who was a candidate for Congress to succeed Mr. Crampton, is an Osborn man. W. J. Orr, former partner of Mr. Wallace in his various interests, is, I understand, favorable to Mr. Newberry and can, in

some measure, counteract the Wallace influence. We have a fine team in our two leaders and are counting on them to carry the county.

SANILAC:

John Cawood, Brown City, Secretary. The organization in Sanilac County, is practically completed. The work is in charge of one of the livest wires in Sanilac County, who should gain a majority for Mr. Newberry.

SCHOOLCRAFT:

Benj. Gero, of Manistique, is looking after the campaign in Schoolcraft county and circulating the petitions. Gero is the owner of the Courier-Record, Chairman of the Republican County Committee and strongly anti-Osborn. He is the strongest man there. State Senator Wood is for Osborn, but it is doubtful whether he will do very much as he is a candidate against Congressman Scott of Alpena. The situation in Shcoolcraft County is fine and there is no doubt that the county will be carried by a good majority.

SHIAWASSEE:

W. H. Whitehead, Owosso, Chairman, and Neil R. Walsh of Owosso, Secretary. This organization is complete, there being from three to five men on every committee in each township and voting precinct in the county. This gives a working organization of about ninety four members, which is splendid.

ST. JOSEPH:

Hon. W. F. Thomas of Constantine, Chairman and J. B. Burns, Three Rivers, Secretary. The Committee is practically complete in every township and city, and literature and petitions are being circulated. This county will be carried by a good majority.

ST. CLAIR:

St. Clair County is in the best of shape. Petitions with over 1,200 signers are in, and the organization is complete.

TUSCOLA:

H. S. Myers, Caro is Secretary. We are very fortunate in having Mr. Myers with his organization as he has been years perfecting it and has his leaders in all the townships. Our Mr. Corliss has spent the past week in going through the townships and villages and says that he finds the sentiment mostly all Newberry, although there is a little Osborn sentiment and quite a few people who are lined up for Warner, being under personal obligations to him for past favors. Petitions have been circulated in 18 of the 23 townships and the balance are now under way. The Fairgrove Enterprise and the Akron Leader have promised to support Mr. Newberry.

VAN BUREN:

Gladstone Beatty of Paw Paw Manager. Associated with him is Royal Decker and they are working out a complete organ-

ization, a full report of which will be in in a short time. The outlook in Van Buren County is good.

WASHTENAW:

Richard Owen, of Ypsilanti, is Secretary and has been doing a great deal of effective work, furnishing us with lists of workers throughout the county all of whom have received our regular letters, and, in a great many cases, we have received pledge cards. We do not fear any great Osborn sentiment there, although there is some for Mr. Warner. However, everything is being done to perfect the organization and we are in good shape.

WAYNE:

Milton Oakman, Manager. Everything quiet. James Couzens still talking about coming in. Ford petitions in circulation. Fine factory league organized, with members in about seventy-five factories and about four thousand members. Fine Petitions. Situation satisfactory.

WEXFORD:

Hon. William H. Yearnd, Cadillac, Manager. Judge Yearnd has his organization perfected and has circulated his petitions and literature. The situation there, of course, can be improved, but we will have a big fight in our effort to get the votes, as the county is at present strongly Warner and Osborn.

DEFENDANT'S EXHIBIT 54-B.

Lansing, June 5th, 1918.

Hon. Truman H. Newberry:
My dear Commander:

Jackson County.

I visited Jackson County yesterday and went over the situation thoroughly with Hon. Charles J. DeLand, our manager there. Mr. DeLand is a member of the State Senate and is thoroughly in touch with the situation.

He tells me that it is absolutely quiet,—that people generally have shown no interest whatever in politics, that there is but very little sentiment for Warner, and, while Mr. Osborn has been there three times to make speeches, and his managers have been there once or twice to get someone to handle the campaign for them, they seem to have made no impression whatever. He says that if Ford should be a candidate he would get some of the farmer votes. Mr. DeLand states that the fact that you are in the service and not home campaigning for office is a big advantage. He thinks that all we have to do is to keep on just as we are and we will carry the county.

In this Mr. A. D. McBurney, of the Michigan Seating Company, who is also one of our good friends there, agrees.

Last evening we drove twenty miles into the country to talk to Hon. L. Whitney Watkins, whom you probably know. He has been State Senator, was Bull Moose candidate for Governor, and is one of the most prominent farmers of Michigan. I made an earnest effort to get him to give you his support, but he has not yet decided what he will do. He is coming to Detroit to see me. I am enclosing herewith a form of letter which I wish you would write him.

I think the situation there is satisfactory for the present. We are pushing the circulation of petitions and will form our organization a little later. There are two factions and I have had a hard time getting them together. I think I have succeeded but I do not wish to crowd them too fast.

I am spending the day in Lansing and will leave for Grand Rapids tonight.

I am also enclosing a form of letter to Richard H. Fletcher, and one to Thomas Payne, which I will be glad to have you send. These are purely by way of suggestion, of course.

I hope you are feeling much better by this time.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT NO. 54 G.

(TELEGRAM)

Benton, Harbor, June 7, 1918.

Hon. Truman H. Newberry,
280 Broadway,
New York.

Am having fine day in Berrien County. Outlook most promising. Good reports from all counties. Warner announces candidacy today. Am not at all disturbed.

Paul H. King.

DEFENDANT'S EXHIBIT 54-H.

(Letter from TRUMAN H. NEWBERRY to MR. KING).

MR. MURFIN (reading):

"My dear Paul: I enclose herewith report made by J. M. Bush, together with a copy of letter of transmission from Mr. Duncan"—

MR. MURFIN: With Mr. Dailey's permission I will say to the Court and Jury that the report therein referred when it was sent back it was in the exhibit to which Mr. Dailey and I referred. While it was not enclosed in the transmission I have agreed with Mr. Dailey it will be treated as not read but printed by the stenographer.

MR. DAILEY: It may be referred to.

MR. MURFIN: Certainly it may be referred to. It is one of the things I understand your Honor says is not competent, and I am helping Mr. Dailey in the ruling here (Resuming reading)

———"and call your attention to his request that Mr. Bush's name be treated as strictly confidential. I shall be interested to have your comments on this report when you have time to digest it.

I shall see some of my friends as soon as possible who

are business associates of O. C. Davidson, and endeavor to get them interested in his political activities.

I am also enclosing letter from Mr. Henry W. Rose and I will send a picture to Mr. Kilfedder as he requests. I suggest that you get in touch with the individual himself, as he is in an occupation that causes him to know many people.

I also enclose a letter from Anthony Waltz. I have answered in both cases suggesting that they call at your office at their early convenience.

Your telegram just received and I am glad you feel as I do that Warner's entrance is entirely satisfactory.

Sincerely yours,

Truman H. Newberry.

DEFENDANT'S EXHIBIT NO. 54-I.

(Telegram dated June 7, 1918.

Paul King, Room 310 Ford Building, Detroit, Mich. Forward. Please see Edward Lowe in Grand Rapids as soon as possible. Letter mailed you to Detroit last night which you should read before seeing him.

Truman H. Newberry.

DEFENDANTS' EXHIBIT NO. 54-J

(Telegram dated June 9, 1918.)

Hon. Truman H. Newberry, Hotel Biltmore, New York, N. Y. Have had good week in Western Michigan, Berrien, Van Buren, Allegan and Kent look very promising. Am writing detailed report. Paul.

DEFENDANTS' EXHIBIT 54-M.

June 14, 1918.

Dear Paul:

Replying to your note of the 11th about Arthur Vandenberg, I shall certainly do what is necessary to get acquainted with him while he is here. Probably the easiest thing would be to ask him to use my motor for a day or so. At any rate, don't fail to let me know when he arrives and where he will stay, for I appreciate the desirability of his cooperation.

On the 12th I had luncheon with Mr. S. L. Shoonmaker, Chairman of the Board of the American Locomotive Company, who shares his office with Mr. Henry Frick, Chairman of the Executive Committee of the

United States Steel Company. Mr. Schoonmaker is a life-long friend of mine, and he is having taken up the question of the activities of Mr. O. C. Davidson with Mr. Farrell, President of the Steel Company, and I understand Mr. Farrell will communicate with Mr. Samuel Mather, member of the Board of Directors. I have not written Mr. Mather but am very intimate with his brother, Mr. William Mather, who is President of the Cleveland-Cliffs Company, and I therefore hope to report favorable action in the near future.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Mich.

DEFENDANTS' EXHIBIT NO. 54-N.

(Telegram from Mr. King to Mr. Newberry).

Battle Creek, June 11, 1918.

Hon. Truman H. Newberry,
Biltmore Hotel.

Democratic conference at Lansing Tuesday evening reported to have adopted resolution calling for Henry Ford as compromise candidate of all parties as supporter of administration and calling on Republican candidates to withdraw. Some nerve. Interesting but not alarming.

Paul.

DEFENDANT'S EXHIBIT 54-O.

June 11th, 1918.

Hon. Truman H. Newberry,
P. O. Box, No. 908
New York City.
My dear Commander:

EATON COUNTY.

I visited Eaton County yesterday and have arranged with Dr. J. B. Bradley, Eaton Rapids, former state senator and auditor general, to handle the county. He will perfect his own organization. With him will be associated Doctor H. Allan Moyer of Charlotte.

During the day I called on Fred G. Warren, Justice of the Peace, Alderman Leon Benedict, O. P. Shuler, a druggist, Hon. Ernest G. Pray, former member of the legisla-

ture and manager of the Dry Milk Company, all of whom are for us, also J. D. Butler, an old soldier whom I met. I also called on James Brown, head of the War Board, Emerson Boyles, chairman of the Republican County Committee, Hon. L. D. Dickinson, Lieutenant Governor, Hon. Russell R. McPeek, Judge of Probate, Boyden C. Moyer, a druggist, Merel H. DeFoe and Harry T. McGrath, publishers of the Charlotte Republican, and C. C. Ward, editor of the Tribune. Mr. B. C. Moyer will undoubtedly be with us on his brother's account. Mr. Ward is ill and away from home, but his paper is handling our publicity in fine shape.

I also met George W Rowley, a retired business man, L. S. Dann, former Judge of Probate, and John C. Nichols, a lawyer, but they did not express themselves.

DeFoe is not only a local publisher, but has been active in state politics a long time. He is publicity man for the State Food Administration now, and while executive Clerk in Governor Osborn's office, I do not think he will be for him on account of some personal differences they have had since. McGrath will do what DeFoe says. Boyles, I think will come around all right and do us a lot of good.

Dr. Bradley tells me that Dr. A. G. Sheets, of Eaton Rapids, a prominent physician, will be all right. We also have with us in Eaton Rapids, J. S. Hamlin, editor of the Eaton Rapids Journal, W. Scott Munn in the Post Office, and Clarence B. Knapp.

The concensus of opinion seems to be that Warner will not get much of a vote, notwithstanding the fact that N. P. Hull, of Dimondale, a prominent granger, will doubtless be for him. There is some sentiment for Osborn, but he has never carried the county in any of his campaigns.

My visit was the first which has been made in behalf of senatorial candidates. There had evidently been no consideration or discussion of the matter at all. I have stirred them up and they will get busy at once. Doctor Bradley is a good man and I am sure will get results. As I wired you last night, I think we are in very good shape in Eaton County.

Sincerely yours,

Paul.

DEFENDANT'S EX. 54-P.

June 15, 1918.

Dear Paul:

I am in receipt of your letters of the 10th (3) and 11th covering the counties of Eaton, Ingham, Berrien and Van Buren, all of which I have read and re-read with interest, in order to get some hazy vision of the really tremendous travel and effort that you are putting into this campaign. I never can half thank you for what you are doing for me personally, and the party should thank you for really awakening the interest of the leading men of the various portions of our state in our state's representation in Congress. This will become more and more important, and I hope that what you are doing may be fittingly realized by your fellow citizens.

The unheard of developments in Mr. Ford's case really require pages of comment, and I am going to hope that after ten days or more that you will come down alone or with Allan, when we can give some time to a thorough review of the situation as it then exists and plan for the future.

Of course, I have read all that has been published in the papers here, and have received some telegrams and letters bearing on the subject, to which I have given non-committal answers. Yesterday Mr. Sweinhart called while ex-Secretary Garfield was with me, and I said precisely what I told you I would state—to the effect that I was thankful to be a naval officer and attending strictly to my duties as such and that the nearness of the war and the activities of our enemies close to our shores made the winning of the war paramount, and that all other matters seemed of minor importance. I told him to thank George Miller for the opportunity to give my views, and to express my regret that I could not give him any adequate interview on the subject of Mr. Ford's candidacy. He laughed and said he did not think that would be very satisfactory to his paper, but he was friendly, and I hope what he telegraphed will be presented by his paper in a fair manner, however, I never have any hopes or expectations in connection with the News and imagine that they will strongly support Mr. Ford and be-little everyone else. Osborn's statement was given excellent publicity by the New York papers this morning, and the edi-

torials that I have read in last night's Evening Post and in this morning's Times and Herald Sound sane and reasonable, and I am thankful that my name has been deleted.

I have no doubt that Osborn, or some good citizen will very soon comment upon an idea so entirely revolutionary to our form of Government, as is shown by the Commander-In-Chief of our Military forces, in time of war selecting the senators for various states, who are certain, if they go to Washington, to obey his requests or orders. Our whole form of Government was built up to avoid this interference of the military with the civil government, and is expressly carried out in the avoidance of having military or naval officers in control of the war or navy departments. When the people are sufficiently interested, they will certainly rebel against this dictatorial action, and I am going to hope that there are enough good, loyal, patriotic citizens in Michigan to properly rebuke Federal dictation regarding our state's representation in Congress.

One other thought that you might think advisable to filter out, is the absolute fact that Henry Ford can be of more use to his country, under existing conditions, in producing the boats and motors that he has contracted to produce, than he ever could be sitting in the Senate, and no one can dispute the fact that it will be impossible for him to do both, so that he must be faced with the problem of abandoning the Ford Motor Company or his political responsibilities in case of election.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

To say nothing about the novel idea of the Democratic National Committeemen and friends selecting the Republican candidate for the Senate, which should certainly amuse if not interest the Republicans generally, the further fact that Ford has boasted that he never voted until he voted for Woodrow Wilson gives some side light on his view on National affairs and his interest in the Republican organization.

Your letter of the 11th about the banquet has just been received.

DEFENDANT'S EXHIBIT 54-Q.

June 11th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908
New York City.

My dear Commander: KENT COUNTY.

Saturday morning Hon. George Welsh had arranged a noon luncheon at the Hotel Pantlind, at which were present the members of the County Committee.

He has a fine organization consisting of one member from each of the twenty-four townships and twelve from the City of Grand Rapids. There were some who could not be present, but with the committeemen and guests there were about thirty men in attendance. I addressed the meeting at the close of the luncheon and talks were made by Alvah Brown, Chairman of our County Executive Committee, Mr. Welsh, our Secretary, Hon. Charles Holden, Insurance man and former member of the legislature, Robert K. Jardine, lumber dealer and member of the Board of Public Works, Grand Rapids, Hon. Huntley Russell, former State Land Commissioner and State Senator, and Martin H. Carmody, a prominent attorney.

It was a most enthusiastic meeting and I feel very much pleased with our organization in the county. Those present were as follows:

(I will omit the names if it is agreeable)

I am very much pleased with Mr. Floyd's progress in Western Michigan. He has done some good work here and is entitled to a lot of credit. I am going over again next week and visit some of the other counties. Before going, however, I will spend the day Monday in Eaton County, Tuesday in Detroit—possibly visit Lapeer County in the afternoon and evening—Wednesday in Cass County—Thursday in Muskegon, Friday in Kent and Saturday in Kalamazoo. I shall be on the road much of the time for the next few weeks.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT 54-R

June 13th, 1918.

Hon. Truman H. Newberry,
P. O. Box 908,
New York City.
My dear Commander:

Mr. Smith has handed me Chase Osborn's thrift stamp letter, and I would suggest that it would be a good idea to go ahead with it, if you feel that you can do so.

Merlin Wylie, his manager favored me with one of the letters and you will see that they are paying particular attention to us. I have sent out mine, and if you will give me the names of five of your friends to whom such a letter might be sent I will see that they are written and forwarded.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT 54-S.

June 13th, 1918.

My dear Commander:

I take great pleasure in introducing to you through this letter Mr. Donald B. Gillies, Vice President of the McKinney-Steel Company of Cleveland, who is a friend of a warm personal friend of mine, Hon. Charles H. Watson, formerly of Crystal Falls.

Mr. Gillies has a son in the navy and I know that you will be glad to be of any service to him possible.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT 54-U.

(Telegram from Muskegon Michigan)

June 14, 1918.

Hon. Truman H. Newberry,
New York City.

Washington despatches announce Henry Ford's candidacy with President's endorsement as you undoubtedly know. Suggest we simply go ahead with our campaign just as we have been doing. Am not at all alarmed. Do not think it necessary or advisable for us to make any statement at this time. Am driving through Oceana and

Newaygo Counties today. If you wish to wire me send telegram to Grand Rapids, care Charles A. Floyd. He will get message to me. Will phone you from Grand Rapids Saturday morning.

Paul H. King.

DEFENDANT'S EXHIBIT 54-T. (Telegram from Truman H. Newberry).

June 14, 1918.

Paul H. King,
c/o Charles A. Floyd,
Grand Rapids, Mich.

Your Muskegon telegram expresses my views exactly. Hope all my friends will avoid any public statement or interview. This is what my wire to you via Detroit this morning was for.

Truman H. Newberry.

DEFENDANT'S EXHIBIT—54W: (Telegram from Truman H. Newberry)

June 14, 1918.

Paul H. King,
Detroit, Michigan.

It is a good time to sit down and not rock the boat for a couple of weeks.

Truman H. Newberry.

DEFENDANT'S EXHIBIT 54-Z.

(Telegram dated June 16th, addressed to Commander Newberry from Paul King, addressed to the Biltmore Hotel and dated at St. Clair, Michigan.)

Tried to get you on phone today. Nothing special, just some gossip. Will write Monday. Talked with Warren, glad to have information. Situation satisfactory. Vandenberg in New York some time this week, Hotel Knickerbocker. Please look out for him. Best regards from us all.

DEFENDANT'S EXHIBIT 54-AA.

(Telegram to Paul King from Commander Newberry, June 16, 1918)

See Benjamin Warren immediately if possible. He has important information and may leave Detroit this afternoon.

DEFENDANT'S EXHIBIT 54-BB.

Mr. Murfin: I will read this in the inverse order. It is dated June 17th, 1918.

"Dear Commander:

This is a sample of our weekly letter to our county chairmen and secretaries. Paul."

And then the sample reads as follows:

"Hon. George W. Welsh,
Grand Rapids, Mich.
My dear George:

The week just past has been another one of progress in our campaign. I have just returned from a visit to the counties of Eaton, Lapeer, Cass, Muskegon, Ottawa, Oceana, Newaygo and Kalamazoo and our friends are busily engaged in perfecting their organizations. In some counties I met with our full committees and more enthusiastic Republican gatherings I have never seen.

The developments of the last week have not disturbed us in the least. They have simply served to arouse the party spirit and to inspire us on to greater endeavors.

We shall go on steadily forward in the firm conviction that we have not only the best candidate but the 'winning' one; and with the help of our splendid organizations there can be but one result—VICTORY.

Please keep me posted as to the sentiment and know that we will appreciate your suggestions as we go along.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT 54-X

June 14th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.
My dear Commander.

I am in receipt of your letter of the 11th instant enclosing report made by Mr. Bush on the situation in Iron and Gogebic counties.

This largely confirms the information I was able to secure in the Upper Peninsula and am glad to have it. I am writing to all the people he mentioned. In accordance with your request I have had the report copied and am returning the original herewith.

We have already gotten busy in these counties and will make a good showing in each.

Sincerely yours,

Paul.

Mr. Murfin: The report is the portion we agreed might be printed and used in the argument, but not take the time to read it.

DEFENDANT'S EXHIBIT 54-Y

"Ironwood, Mich.
May 29, 1918.

Mr. M. M. Duncan,
Ishpeming, Mich.

My dear Mr. Duncan:

I am here at Ironwood after completing a trip through Iron, Dickenson, and Gogebic Counties by automobile.

I left home last Wednesday afternoon, and have enjoyed every minute of my time since. I took a good deal of pleasure in meeting large numbers of my former business associates on the different Ranges, and also renewed acquaintanceship with a great many men with whom I played baseball some twenty years ago.

I give you the following memorandum of my visits with a number of the most prominent men with whom I talked.

IRON COUNTY.

From reports received prior to going to Iron County, one was led to believe that very few votes could be expected for Mr. Newberry in this section. The fact of the matter is that I found a great deal of Osborn sentiment due to particular causes, first one being the fact that the only two newspapers in the County are both very ardent Osborn supporters, and are whooping it up for him to their utmost ability, and the second fact is that Mr. Osborn has a very large and close acquaintance in the County, especially among the older residents, and after talking to a large number of my friends and acquaintances, I find that a great many will vote for him, notwithstanding the fact that they do not believe in his particular brand of politics. I think, however, that should Mr. Newberry's Campaign Committee commence getting busy right away, there is no question but that good results can be obtained in this County, and I have sug-

gested to our friends that they organize a Newberry Club, and strongly advise that Mr. Paul King be immediately notified of this, and that he follow the matter up very closely, addressing communications regarding the matter to Mr. M. E. Richards, Crystal Falls, Mich., and Mr. E. C. Bowers, Iron City, Michigan.

MR. M. E. RICHARDS.

Mr. M. E. Richards is manager of the Judson Mining Company, operating mines at Crystal Falls and Amasa. He is a young man and an exceptionally energetic fellow, and has informed me that he will be glad to line up with the Newberry forces, and stands ready to do all in his power to further the campaign, and I suggest that Mr. King keep in close touch with him and begin work immediately.

MR. W. J. RICHARDS.

Captain Richards is General Manager for the Corrigan McKinney Mines, and is vitally interested in Mr. Newberry's campaign, and is ready to put in every effort to further the matter. I had a long talk with him, in which we discussed politics in Iron County, and we both feel that a great deal of work will be necessary to keep Mr. Newberry's name before the voters in Iron County from now until the Primaries. He agrees with me in my suggestion to Paul King, that it is of vital importance that an organization be gotten together to have charge of the campaign in the Upper Peninsula, and he suggests that an effort be made to get former Senator Moriarity interested in the matter. I think this should be taken up with Paul King.

SENATOR M. H. MORIARITY.

Senator Moriarity has been very friendly to Mr. Osborn, but does not agree with his policies, and during this campaign I understand that he will not be for him; but on the other hand does not care to become active in Mr. Newberry's behalf, saying in effect, "Why should I get out and hustle for some one in whom I have no great interest. I have been doing this hustling for a great many years, and practically sacrificed my law practice in so doing, and I practically made up my mind to keep out of this sort of work." Captain Richards thinks that Mr.

Newberry could well afford to hire the Senator to work in his interest, and give all his time to the campaign from now until the Primaries, Senator Moriarity owns a large interest in the Diamond Drill, which is edited by Thomas Conlin and Thomas Conlin is positively for Mr. Osborn as hard as he know how, and Captain Richards thinks that if you can get Senator Moriarity active, he may be able to influence the paper for his support.

MR. FRANK D. BALL.

Mr. Ball is an old time baseball friend of mine, and is now County Treasurer of Iron County, and is a large political factor in Iron County politics. After a long visit with him he agreed to support Mr. Newberry and has promised me to become active in the organization of the Newberry Club to promote the candidate.

MR. HENRY.

Mr. Henry is another old time baseball friend of mine, and is a prominent business man of Crystal Falls. He also has agreed to support Mr. Newberry, and will do all in his power.

MR. ALFRED MARTIN.

Captain Martin has charge of the M. A. Hanna Company Mines at Crystal Falls, and I have known him for a great many years, both at his present position and when I was located on the Mesaba Range. He told me that he would be glad to support any candidate who, we might be for, and as we are for Mr. Newberry, he would like to do all in his power to help the matter, but before doing anything he would like to know how his principals felt in regard to the matter. I suggest that you write Mr. J. D. Ireland, Cleveland, Ohio, or Mr. E. E. Hunner, Gen. Mgr., Duluth, Minn., asking them to write Captain Martin with reference to the matter.

MR. JOHN R. STOLBERG.

Mr. Stolberg is a prominent Scandinavian business man of Crystal Falls, and is very active among the Scandinavians in politics. He is a sound, solid citizen and a man of great influence in the community. He did not commit himself to me in any way, but I gathered from our visit that he is inclined to line up with the Osborn

forces, and I suggest that Paul King write him and urge him to become active with Mr. Newberry's campaign.

In visiting around Crystal Falls Generally, I find quite a few old timers who are ardent Osborn men, among them are Samuel Bridges, R. B. Webb, Jas. R. Flood, and I think a lot of active work will be necessary in this vicinity.

MR. E. C. BOWERS.

Mr. Bowers is manager of the Wickwire Steel properties in Iron River. He tells me that he will be for Mr. Newberry, as he has not time for a man like Osborn; he so advised Paul King when the latter was at Iron River. He has felt somewhat put out at the action of Mr. Moore, who he thinks presumes somewhat on short acquaintance by writing him, enclosing Mr. Newberry's petition which he asked him to circulate. He did not think it in good taste to be asked to do this when he does not know Mr. Newberry, and only about three minutes' conversation with the Manager. After a long visit with him he agreed to become actively identified with the Newberry campaign and the proposed Newberry Club in Iron County. I suggest that Paul King be asked to write him a nice friendly letter, saying in effect that he has been advised of my visit with Mr. Bowers, and that he is pleased to learn that he will be with Mr. Newberry. Paul King and the Campaign Committee may also send Mr. Bowers such literature as they are putting out and he will see that it is properly placed.

CAPTAIN LOWNEY.

Captain Lowney has charge of the Zimmerman Mine and has agreed to support Mr. Newberry, and do all he can for him.

MR. JOHN A. MONROE.

Mr. Monroe has charge of the operations of the Mineral Mining Company, and he tells me he will be glad to assist in promoting the Newberry Campaign, if we are all back of him, which I assured him we were.

MR. RUDOLPH ERICKSON.

Mr. Erickson has charge of the Davidson Ore Company Properties, and after a long visit he said he would

be for Mr. Newberry with his vote at least. I told him we wanted him to go further than this, and agree to be active in the Newberry campaign, and he finally said he would, but I feel that Paul King should write him at once and endeavor to get him to become a little more enthusiastic about the matter.

MR. F. J. SMITH.

Mr. Smith has charge of the Olgeby-Norton Company's property, and after a long visit with him he did not commit himself, but after going to Ironwood, I had a long talk with the General Manager, Mr. E. W. Hopkins, and he said he would take the matter up with him.

Visiting around Iron River I find considerable sentiment for Mr. Osborn among men who have known him for the past twenty-five or thirty years, for instance like Mr. Finley A. Morrison, Mr. E. S. Goe, and Mr. Wm. Tully, with whom he has been associated in mining explorations at different times. These men like Mr. Osborn personally and will vote for him also, although some of them do not like his politics. Pat O'Brien, editor of the Iron River Reporter, is out strong for Osborn, and has always been for him.

It will be necessary to do a very considerable amount of work following my visit here in order to keep the interest going for Mr. Newberry. I suggest that Paul King become active at once in the matter.

DICKENSON COUNTY.

I went through Dickenson County from one end to the other and talked with scores of men who I had known for a great many years. I find the situation in this County to be this: Mr. O. C. Davidson, who is in charge of the Steel Corporation, is a very close personal friend of Mr. Osborn; and while I think he does not agree with his particular brand of politics, I feel that his attitude will be friendly towards Mr. Osborn, and in that event, it will be difficult to get mine men and prominent citizens generally to become active in furthering the canvass of Mr. Newberry, and I suggest that Paul King give some attention to Dickenson County at once.

MR. THOS. A. HANNA.

Mr. Hanna is publisher of the Iron Mountain Press, and has no use for Mr. Osborn. In talking to him he

told me he had not tied up to any candidate as yet, but after a long visit he told me if Mr. Newberry was the man wanted and would all be for generally, he would line up with us, and I so assured him.

MR. GEO. A. EISILE.

Mr. Eisile is assistant to Mr. Davidson, and he informs me that there is little Osborn sentiment in Iron Mountain, and that Mr. Davidson's attitude toward Mr. Osborn as candidate would in a large measure govern when it came to voting.

MR. JAS. B. KNIGHT.

Mr. Knight is editor of the Norway Current, and has known Osborn a great many years, and likes him personally, but has no time for him politically. He is a great friend of Mr. Davidson, and wants very much to assist in Mr. Newberry's campaign, but does not want to do anything that will run counter to the wishes of Mr. Davidson. He told me that as soon as Mr. Davidson came home he would interview and ascertain just how desirous he may be about Mr. Osborn, and if he did not feel strongly about the matter, he will be glad to line up with his paper for Mr Newberry, and he agreed to write me in a few days in regard to the matter.

MR. C. H. BAXTER.

Mr. Baxter has charge of the Loretto Iron Mining Company's properties at Loretto. He says he is with us for Mr. Newberry. He also stated that he knew Mr. Davidson was very friendly with Mr. Osborn, and he does not want to do anything that will run contrary to what Mr. Davidson desires. He says he is a great friend of Mr. Davidson and does not want to oppose him in any way, and therefore does not want to become active in a general way in the County, but will be glad to take care of literature or political matter that may be sent him for distribution in his community.

MR. J. C. KNIGHT.

Mr. Knight is an old time baseball friend of mine, and is a candidate for prosecuting attorney for Dickenson County this year. He lives in Norway, and has always been somewhat of a radical, having been a prominent

member of the Progressive Party, but is now back in the fold. I was successful in prevailing upon him to join the Newberry force, and he says he will do all he can to help.

MR. F. W. SPURR.

I came across Professor Spurr of the Houghton College of Mines, and found him to be very much Anti-Osborn, and he says that if Newberry is the man, he has no doubt but what the Copper Country will be for him.

GOGEBIC COUNTY.

In coming through Gogebic County I find myself very much at home, having been an active resident of the County for ten years. I have talked to scores of men from Ironwood to Wakefield and find considerable Osborn sentiment, and Newberry's name practically unknown, and it will take considerable work to get many votes for him in this community, as Mr. Osborn has been campaigning through here for upwards of twenty-five years, and is very well known.

MR. D. E. SUTHERLAND.

Mr. Sutherland has charge of the Steel Corporation interests on the Gobegic Range. He left for Lansing a few hours after I arrived at Ironwood, and I did not have an opportunity of discussing Mr. Newberry with him, but I feel positive that his attitude will be governed by Mr. Davidson's wishes. I suggest that Paul King be asked to write him a very nice letter at once, soliciting his support for Mr. Newberry.

MR. E. L. CULLEN.

Mr. Cullen is general Manager of the Newport Mining Company properties at Ironwood and Bessemer, and employs in the neighborhood of 2000 men. He does not as a rule act with the other men on the Range, but after a long visit with him I secured his promise to take an active part in the Newberry campaign. He told me that he had a letter a few days ago from Mr. Paul King in regard to the matter, and I suggest that Mr. King write him, saying in effect that I had reported on my visit to him and that he had agreed to become active with the Newberry Campaign and thank him very cordially and assure him that his support is greatly appreciated.

MR. C. E. HOUCK.

Mr. Houck is cashier of the Merchants and Miners Bank and has always been active in Politics. He told me that he had not tied up with anybody, and that if Mr. Newberry was the man that we all wanted, he would be with him to the finish.

MR. R. A. DOUGLAS.

In talking with Mr. Douglas he informed me at first that he would probably vote for Mr. Osborn. I visited him quite a while, but while he admitted that Newberry was the best man and all that, I could get no definite understanding with him to be for Mr. Newberry, and I doubt that he will be. I have been closely associated with Mr. Douglas for a great many years in matters of this kind, and usually found that even if he told you he was with you in a proposition it was difficult to get him to do much work. I suggest, however, that Paul King write him again to become active in the interest of Mr. Newberry.

MR. G. M. HUMPHREY.

Mr. Humphrey is a prominent lawyer of Ironwood, and tells me he has not made up his mind as to who he will support, or whether or not he will become active. I told him we would like very much to have him with us, and he said he does not think that he will be for Mr. Osborn, but will make no promises at this time. I suggest that Paul King take the matter up with him at once.

MR. BELMONT WAPLES.

Mr. Waples is another lawyer of Ironwood, and he says that he will be very glad to support Mr. Newberry and will do what he can to assist.

MR. G. S. BARBER.

Mr. Barber has charge of the Corrigan-McKinney Mines at Bessemer. He is for Mr. Newberry and has promised me to be active in the work at Bessemer.

MR. W. E. McRANDLE.

Mr. McRandle has charge of the Yale Mine at Bessemer which is owned by the Charcoal Iron Co. of America,

and he tells me he will be for Mr. Newberry and will be very active in the work at Bessemer.

The general office of the Charcoal Iron Company, I understand, is at Detroit, and the matter might be taken up with them.

MR. WALTER TRUETTNER.

Mr. Truettner is cashier of the First National Bank at Bessemer and is very influential in politics, and he agrees to be for Mr. Newberry and will take an active part.

MR. W. C. HART.

Mr. Hart has charge of the M. A. Hanna Company properties at Wakefield, and will be for Mr. Newberry. He tells me that Wakefield is an Osborn stronghold, as Mr. Osborn was up here a few weeks ago and delivered a lecture on Russia; and if election was held at this time, he would probably get every vote in Wakefield, he made such a good impression. Mr. Hart will do what he can for Mr. Newberry.

MR. L. M. HARDENBURGH.

Mr. Hardenburgh has charge of the Pickands Mather & Co. Mines on the Gogebic Range. He will be for Mr. Newberry and will do all he can.

I have visited scores of men on the Range, who work in and about the mines, with whom I am very well acquainted, and have endeavored to impress upon them the advisability of standing for Mr. Newberry in opposition to Mr. Osborn. They have never heard of Mr. Newberry, but have heard of Mr. Osborn a great many times, and his name is very familiar to them, and while all with whom I have talked have agreed to follow our wishes regarding Mr. Newberry, still I cannot help but feel that unless active campaign work is immediately commenced in behalf of Mr. Newberry, he will get very few votes in the District. I have given you above the names of some of the men with whom I have talked but you know that it is necessary to have a leader in all things, and I feel that it is of vital importance that Mr. Newberry have an active campaign manager in the Upper Peninsula; a man who has considerable force of character, is well known throughout the Upper Peninsula, and is familiar with this kind of work, to give all his time and attention cir-

culating through every county building up an organization and keeping the work under way from now until the Primaries. In this way, and in this way only, do I think any active interest can be aroused in Mr. Newberry's campaign.

I find but two mining men who are not for Mr. Newberry in all the counties I have visited, and they are Mr. C. E. Lawrence of Stambough, Mich., and D. H. Campbell of Iron River, Mich. Mr. Lawrence, I understand, has promised Mr. Osborn his support. Mr. Campbell would not agree to support Mr. Newberry and I feel confident that Mr. Osborn or some of his solicitors have done considerable work with him. He admitted to me, however, that Mr. Osborn was not all that could be desired as a senatorial candidate, and I suggest that Mr. Paul King write him at once, asking him to support Mr. Newberry. I have not seen Mr. J. A. O'Neill yet, but expect to do so before leaving the city this evening. But I suggest that Paul King write him at once as he is a prominent atorney and active in politics.

I enjoyed my trip through the counties very much indeed, notwithstanding the fact that the weather has been extremely bad most of the time. I have renewed acquaintances with a great many of my friends and hope some result may be obtained from our visit.

Yours very truly,

(sd) J. M. Bush.

DEFENDANT'S EX. 54-CC

June 17, 1918.

My dear Commander:

I am glad to have your good letters of the 13th, 14th and 15th. I have just held a conference of our field men and the consensus of opinion, based on information from all parts of the state, is that the Ford candidacy is the best thing that possibly could have happened to inject some ginger into the campaign. It has been really tremendously hard to get people worked up to the point of even talking about it, let alone working, but now that the Ford announcement has come out, all this has been changed and there is a very general interest all through Michigan. The Republicans, generally speaking, are highly indignant over the action of the Democratic Conference and do not hesitate to express their resentment

and we have even gotten word that some of the old line Democrats say that they will not stand for the party leaders forcing a Republican down their throats, so that possibly the Ford endorsement will make both parties mad.

I happened to bump into Chase Osborn in Muskegon the morning Ford's announcement came out. He was very much pleased with himself and the world generally. He had just made a speech at the Lindermann plant, which he said was encored twice; "I had to make three speeches instead of one," he said, "it was certainly great." I congratulated him and told him how fine he looked and we were on most pleasant terms. He said, "now, the thing for Newberry to do is to get out of the race and let me beat Ford." I laughed and replied, "why, don't you get out and let us beat him?" "Oh," he said, "you fellows aren't getting anywhere at all." Disregarding the remark, I said, "Well, Mr. Ford is a nice man," to which he replied: "Mr. Ford is not a nice man and you know it; he is a liar, a horse-thief and a murderer, and I am going to tell the people of Michigan so every chance I get. Wilson may be the war lord of the country, and that is all right, but he can't come in Michigan and tell the Republican party who to nominate for the United States Senate."

I encouraged him to wield his battle-axe and he has certainly been doing it. There is only one danger that I can see in that, unless he overdoes it, as he probably will, and that is, he may assume the role of party saviour and attract some support on that account.

I do not know that you can say anything at all, but within the next ten days or two weeks, as it looks now, somebody ought to make a few remarks. Before anything is said, however, we ought to get together and talk it all over and I will run down at any time it is convenient.

There is a rumor that William Alden Smith is in some sort of a deal with Ford and that if Ford does not stay in he will endorse Smith, also that Smith's friends are quietly working to create a demand for his reentry. This would not hurt any, so I am not bothering about it. Everybody is calm here and our people are all holding their ground in fine shape. I have not heard of any wavering whatever, in fact, the recent happenings have

stiffened our organization all along the line and I am very much pleased with the situation.

I will be away Tuesday, but will be here Wednesday, Thursday I will be in Grand Rapids and Newaygo, Friday in Leelanaw and Benzie, Saturday in Clare, Clinton and Gratiot.

I am trying to keep you posted on the matter so as to give you some idea of the various phases of the campaign. During the last few weeks I have been going day and night and I think our work is telling in the present state of affairs. We are all doing our level best and send our best regards.

Sincerely yours,

Paul.

DEFENDANT'S EX. 54-dd

June 17th, 1918.

My dear Paul:

Your note of the 13th received and I will have to ask you to return Chase Osborn's thrift stamp letter as I have forgotten what it said, being only interested in the question of how the letter was mailed—whether under Government frank or not, then I will, of course, furnish the five names as suggested, although I suppose that everyone that I know has already been favored.

I am enclosing herewith copy of some correspondence which I wish you would read over carefully and wire me whether to forward the original of my letter addressed to Mr. Ward, direct to him. You will notice that I have not been asked any questions about my own attitude, which is in accord with what I told you and Allan when you were here.

If you think the letter should be modified or amplified, please send by special delivery your suggestion.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Mich.

DEFENDANT'S EXHIBIT 54-EE.

(A telegram dated June 18th, from Paul H. King to Commander Newberry at New York)
"John D. Mangum, chairman Republican State Central Committee will be there Wednesday morning Hotel Biltmore. Please get into touch with him."

DEFENDANT'S EXHIBIT 54-ff.

(Telegram dated June 18th from Paul H. King to Commander Newberry at New York.)
"Warner has withdrawn Groesbeck comes out for Ford.

DEFENDANT'S EXHIBIT 54-jj.

June 25, 1918.

My dear Paul:

Yours of the 19th enclosing Mrs. Farrell's letter reached me only yesterday, and of course, I should be glad to make a very modest contribution Equal Suffrage Association and will be glad to know what your ideas are.

I certainly will not contribute a thousand dollars and if she is going to be disappointed with any less sum, I should prefer not to contribute anything. You know yourself that an unsatisfactory contribution disappoints the recipient and hurts the giver.

I enclose a copy of a letter sent to Mr. Campbell in reply to his communication of the 14th, enclosed with yours of the 19th.

Sincerely yours,
Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

DEFENDANT'S EXHIBIT 54-mm.

June 20th, 1918.

My dear Commander: NEWAYGO COUNTY.

I have had to go to Newaygo County twice, but it has been well worth while. I was there last Friday evening, driving over from Hart to Fremont, a distance of forty miles. In the party were Gardner T. Sands, Hon. Thomas Read, Earl Pugsley and W. E. Lewis, all of Oceana County, and about whom I have already written you.

I arrived at Fremont during the course of a Y. M. C. A.

rally that had been called for Newaygo and which commanded attention from all over the county. William J. Branstrom, Prosecuting Attorney for Newaygo County, who is our manager here, thought it would be a good idea for me to be present at the meeting and suggested that we could have a little conference afterwards. So we drove over to Newaygo. The meeting was certainly a representative one, there being more than 150 men in attendance. They got into a discussion over organizing a county unit and the meeting did not close until nearly one o'clock. I made an address on the subject, but did not, of course, talk politics.

In view of the lateness of the hour we did not try to have the conference. We arranged that I should come up later. This I did today, and I was very glad that things worked out as they did. Mr. Branstrom and D. D. Alton of Fremont, President of the Newaygo County Republican Club, had gotten together delegates from Grant, Whitecloud, Newaygo and Fremont, all of the five leaders in the county, about 30 in number. We had supper at the hotel. After this, I made them a Newberry speech and was frequently applauded, not on account of my eloquence of course, but because of my subject. Those who were there were as follows: (then was given a list of those present)

Talks were also made by Dr. Barnum, Mr. Crandall, Mr. McKinley, Mr. Titus, Mr. Tuttle, Mr. Branch and Mr. Wilson. Mr. Alton presided.

After the talks had been made Mr. Hayward suggested that some action ought to be taken and moved that a committee be appointed to draft a resolution endorsing you for Senator. This was done, and the committee reported the resolutions which were unanimously adopted by a rising vote.

It was certainly a fine meeting in every way and I think that we may count on Newaygo County.

Some of our friends could not be there, one them being Daniel Gerber, President of the Old State Bank, Fremont, Don Vanderwerp, Editor of the Times-Indicator, Newaygo, J. B. John, Newaygo.

On my former visit I met the following: A. E. Stillwell, Editor of the Newaygo Republican; Dr. Drummond, Newaygo; D. A. Waters, Newaygo; Charles Emmons, Fremont; Rev. Magdanz, Fremont; William An-

sorge, Fremont; R. H. Grilley, Grant; F. B. Ewings, Grant; Herman McKinley, Grant; R. H. Merrill, Grant.

The Republicans in Newaygo have the reputation of working together, and I feel that the action taken here is going to make us very strong in the county.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT 54-nn.

June 21 AM 10:29

Fremont, Mich.
Hon. Truman H. Newberry,
280 Broadway, New York, N. Y.
Newaygo County Republican Club DD Alton Fremont President unanimously endorsed you by rising vote enthusiastic meeting wish you could have been here.

Paul H. King.

DEFENDANT'S EXHIBIT 54-oo.

June 22, PM 9:29

Manistee, Mich. 159P 22.
Hon. Truman H. Newberry,
Biltmore Hotel New York, N. Y.
Splendid meeting last night Traverse City fifty of our leaders there from six counties antrim, Charlevoic, Benzie, Leslanlau, Kalkaska and Grand Traverse letter to Ward OK excepting paragraph five would suggest you strike out all after first sentence or at least that part relative overtime for first two hours. This it seems to me is detail which need not be taken up now and mention of it rather modified to General proposition which you favor the rest is fine. Am just advised by wire Spanish American War Veterans in session Saginaw Endorsed your Candidacy.

Paul H. King.

DEFENDANT'S EXHIBIT 54-pp.

June 22nd, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City,
My dear Commander:

You are so very busy that I do not wish to intrude my personal affairs on you, and I would not do so in this case if I thought it would add to your burdens.

I have a substantial interest in a company in Terre Haute, Indiana, the "Inland Steel Casting Company" which was acquired through a friend. As a matter of fact the name of the company is a misnomer; they formerly made steel castings, but are now making malleable entirely. They need some business. I thought possibly you might be in a position to say a word to the Packard people and others which would at least give them a chance to show what they can do.

I have not paid any attention at all to my own affairs since the campaign started until the other day when Allan went down with me to look the proposition over. It is a fine little plant, but is only running at about one-third capacity on account of the cancellation of orders incident to the reduction of pleasure car manufacture. They could make truck castings, however, and in fact any kind of malleable iron castings.

If you can consistently do anything to help in this connection, I will be very grateful, I assure you.

Sincerely yours,

Paul.

PHK:S

DEFENDANT'S EXHIBIT 54-ss.

THN-NM June 25th, 1918.

Dear Paul:

I have your letter of the 22nd, concerning the Inland Steel Casting Company, and I am writing to Mr. Macauley of the Packard Company, and Mr. Utley of the Steel Castings Company, to advise you as to the best method of procedure to secure the character of work your plant is capable of doing.

Allan told me of your trip down there and said it looked to him as if the only trouble was the management and that he had made some suggestions which he hoped would be helpful in making the plant successful financially.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
Detroit, Michigan.

DEFENDANT'S EXHIBIT 54-tt.

June 22, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander:

Things have been coming so rapidly this week that it has been impossible to get time to sit down and write you a letter. I have tried to keep you in touch with the situation, however, by means of telegrams and the telephone.

The announcement of Ford's candidacy has in reality been a good thing for us. It has served to arouse an interest and to stir up the spirits of republicanism throughout the state and crystallize sentiment in your behalf.

I talked with Mark McKee on the telephone yesterday and he tells me that he had a good visit with you. You certainly made a hit with him and I am very glad, because he is in a position to help us a great deal. Of course he would help anyway, but the personal contact has aroused his enthusiasm and what he does will count for more. I am to see him tomorrow to go over the details of his conference with Messrs Mangum and Hayes. He simply told me that it was very satisfactory.

Mr. Warner has certainly lost cast by his contemptible attitude, and Alex Groesbeck is in the same boat. John Haggerty is not to be wondered at because he and Henry Ford were boys together. I have it indirectly that Fred Warner is on Ford's pay-roll, and has been for some time. I do not know that there is any way of verifying this, but will try to do so. This would account for his jumping jack performance and complete servility to Mr. Ford.

I understand that William Alden will try to get into the game before very long, and he would cut into us some, of course, in western Michigan and the Northern Peninsula, but I do not believe seriously. His friends are pretty well tied up and, without making a complete right-about, they cannot support him at this late date.

We have certainly a splendid organization in western Michigan. I have been up the shore from Berrien to Grand Traverse; have met our friends in every county except Emmet, and this I will make a little later. They may have been better organizations before, but I do not happen to know about them. I believe they will stay to

the finish. We have not had a break in our ranks so far and I do not believe that we will have.

I am wiring you today about the letter to Mr. Ward. I am sorry that in the rush here this has been delayed.

I have not reported to you the organization of the "Newberry for Senator" Business Men's Club, the officers of which are as follows: Harry M. Jewett, Chairman, John S. Nichols, Secretary, Murray W. Sales, Assistant Secretary, E. S. Barbour, Treasurer. These gentlemen, together with Henry M. Campbell, A. R. Demory and Jerome Remick, constitute the executive committee. I suggested ways that this organization could be helpful and they will get busy at once.

A wire has just come to me that the Spanish American War Veterans, in a session at Saginaw, have endorsed your candidacy. This is fine. The boys all over the state are taking a great interest and are doing splendid work for you.

With best wishes, I remain

Sincerely yours,

Paul.

PHK:L

DEFENDANT'S EXHIBIT 54-vv

June 25, 1918.

Paul H. King,
310 Ford Building,
Detroit, Michigan.

Garfield not available. Regret I have no other suggestions.

Truman H. Newberry.

DEFENDANT'S EXHIBIT 54-ww.

June 25th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander:

KALAMAZOO COUNTY.

Mr. Floyd had arranged a dinner on the evening of Saturday, June 16th, at Kalamazoo for the member of our organization and there were twenty men present from various parts of the county. We had the dinner at

the Hotel Park-American, and I addressed the meeting afterward.

Those present were as follows:

Ray Brundage,	Kalamazoo,
G. L. Stein,	"
Harry W. Bush,	"
A. B. Connable,	"
F. M. Hodge,	"
Hon. L. B. Mason,	"
A. A. Holcomb (Capt.)	Vicksburg,
Milo A. Show,	Richland,
Lee Gleason,	Vicksburg,
Charles Wagner,	Kalamazoo,
Harrison Merrill,	"
Frank Brown,	"
Frank Burmaster,	"
Isaac Bloem,	"
Frank Newell,	"
Abe Verbage,	"
Thomas Vroegindewey,	R. F. D.
Hon. Cyrus A. Walker,	"
Elton R. Eaton (Sheriff)	"
F. C. Walkinshaw,	Augusta.

Hon. Charles H. Farrell, our Chairman, here, had been away for more than a week on a business trip south and had planned to be home in time for the occasion. He was delayed, however, and could not make it, but sent a telegram expressing his regret and urging the organization into activity.

The party is rather disorganized in Kalamazoo county. We have been able to get the various elements together within our organization to work harmoniously. With Messrs. Farrell, Brundage, and Merrill at work I feel that we are in pretty good shape here and that we may expect good results.

Sincerely yours,

Paul.

PHK:L

DEFENDANT'S EXHIBIT 54-xx.

June 25th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander:

Grand Traverse, Benzie, Leelanau, Antrim, Charlevoix, Kalkaska, Lake Counties.

I had a most enthusiastic conference last Friday night with the leaders in the Grand Traverse Section of the state. Men were present from the seven counties named. When one realizes that the men from Antrim had to drive over one hundred miles for the round trip in order to be in attendance and others lesser distances, it is all the more appreciated. They are all live wires and will get results.

We had a dinner at the Park Place Hotel, at which the following were present: (Naming forty-six men)

At these meetings I discussed frankly the whole situation including the Ford candidacy, and invite questions so that there may be a general discussion.

Speeches were also made at this meeting by Herbert W. Davis of Baldwin, our manager in Lake County, Rev. J. W. Hailwood of Mancelona, Hon. J. M. Harris of Boyne City, our manager in Charlevoix County, Ernest C. Smith, an attorney of Kalkaska, our manager in Kalkaska County, E. W. Abbott of Boyne City, Gaylord & Alpena Ry., Isaac Nurko of Boyne City, Hon. C. L. Bailey, of Bellaire and Charles Floyd. Parm C. Gilbert our chairman in Grand Traverse County, presided.

It was certainly a fine meeting and everybody went out with a new determination to win.

We have certainly got the people in this section who do things, and I see no reason why we should not carry all of these counties. Men like Martin Brown, Judge Harris, Jim Deevy, Ed Dixon, Herb Davis, Judge Pratt, Probate Judge a chairman of the republican committee, are towers of strength in their respective communities. If I were a candidate myself I could not select better men.

Sincerely yours,

Paul.

PHK:S

DEFENDANT'S EXHIBIT 54-yy.

June 25th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City:

My dear Commander:

MANISTEE COUNTY.

We arrived in Manistee from Traverse City about noon, Saturday June 22nd and went directly to the Hotel Chippewa, of which August Field, our manager here, is proprietor.

He arranged a nice luncheon, at which were present about twenty of the active republicans of the county. Railroad Commissioner A. A. Keiser, and party drove over from Ludington. Those present were as follows:

Manistee County.
Hon. Thos. Keift, Mayor,
Phil Beauvais, City Manager,
August Field, Our Chairman,
R. M. Hoffman, Chairman board of Supervisors and Chairman Good Roads Commission.
F. H. Stone, Judge of Probate.
Harry W. Musselwaite, Editor,
Adolph Lotz,
Dr. L. S. Ramsdell,
Roy Overpack,
C. S. Cressler,
J. C. Beukema,
Max Kadzbam,
Arch. Marshall, Bear Lake,
Jos. Meyers, Our secy was unable to be present.

Mason County.

MASON COUNTY.

Hon. A. A. Keiser,
James E. Dewey,
A. L. Pratt,
Wm. C. Conrad.

On the way over from Traverse City I made a Newberry man out of the conductor on the train, J. V. McIntosh, of Traverse City. I also got Otto Smith and Frank Field at Manistee.

I consider that Manistee County is in good hands and that we will carry the county.

Sincerely yours

Paul.

PHK:S

DEFENDANT'S EXHIBIT 54-eee.

June 25th, 1918.

Hon. Truman H. Newberry,
280 Broadway,
New York City.

My dear Commander:

I have read with interest your letter of the 23rd instant, and am glad to know about the conference between Messrs. Hayes and Mangum. I think this will be very helpful.

I am pleased, that Mr. Nimmo saw you. I called on him early. In fact, among the very first, and consulted with him concerning our publicity work. I have not been able to see him since and he has never called at the office. I have been in close touch with Victor Hawkins, the man he named (who is a personal friend of mine) for weeks, and he is the man we are looking to in Hillsdale county.

I am glad that you feel the way you do about remaining in the contest to the finish, and there are many of our friends concerned in the matter to whom I have given assurance, that any other course would be unthinkable.

I am sorry that I cannot come down for Sunday, but I am all booked up on both sides of it for meetings out in the state. Of course, I can cancel these if there is anything urgent.

Our friend, Roger Andrews is still very insistent on the platform, but of course, under present conditions that is entirely out of the question.

I have reversed our letter-writting program and will send out the State Committee letter now instead of the one that I expected to ask you to send. There can be no criticism of your friends activities, whereas, a letter from you to the voters might possibly be attacked.

I have read the correspondence with Mr. Sales, which I am glad to have.

I also wish to acknowledge receipt of correspondence with James P. J. DeLaney, Joseph D. Herowitz and A. C. Reimer.

With best wishes, I remain,

Sincerely yours,

Paul.

PHK:S

DEFENDANT'S EXHIBIT 54-eee.

June 27th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.
My dear Commander:

CLINTON COUNTY.

We left Detroit at 6:20 am yesterday for Clinton County, arriving at St. Johns the county seat, at eleven o'clock.

We were met at the depot by Edward W. Fehling, prosecuting attorney and our manager in the county. Mr. Fehling is a popular young man who is doing very good work. This county is the home of Coleman C. Vaughan, Secretary of State, and editor of the Clinton Republican, also Hon. William M. Smith, Former county clerk, ex state senator, now Chairman of the Industrial Accident Board and member of the state central committee. Mr. Vaughan's influence is controlling in the county and Mr. Fehling did not take hold of our work in the county until Mr. Vaughan had expressed his approval. Mr. Vaughan is a warm friend of Congressman Fordney and Fordney's influence is responsible for Vaughan's attitude.

With Mr. Fehling at the station was D. G. Hunter of Ovid, a prominent farmer who is helping us there. He is a candidate for county office and so cannot take a place in our formal organization.

Ovid is the only spot in the county that is giving our friends any serious trouble. Osborn made a speech here recently and hynotized everybody so that when his petitions were circulated nearly everybody signed up. Hunter thinks that this sentiment can be largely overcome on the ground that Osborn stands no chance for the nomination.

We went to the hotel and met a number of Gratiot County people who were here in connection with a murder case, being tried on a change of venue, among whom

were the sheriff and prosecuting attorney whom I will mention in a report on that county.

After lunch we went up to the court house and met the county officers, nearly all of whom are for you. Fred B. Ludwick, the county Treasurer, had lunch with us. We met Milo R. Van Deusen, Register of Deeds, Conrad Stephan, Sheriff, who is Fehling's close friend, and John Walker, County Clerk. All of these men are for Newberry. E. J. Moinet, circuit judge, J. C. Flynn, Judge of probate and Telio. Townsend county school commissioner, may practically be counted on because, while they did not come out positively for you, they have no use for Ford or Osborn. I think that Fehling will succeed in lining them up.

In the sheriff's office we were introduced to Albert Siebert and W. Ballinger, prominent farmers near St. Johns who had been called on as jurymen.

I make it a point to sound out the Ford sentiment wherever I go. I could find no expression of it here and these two men were of the opinion that farmers in this vicinity would not be for him.

I then went down and called on Henry S. Walbridge, member of the constitutional convention, who is O. K., also Mr. Smith, whom I have already mentioned. Mr. Smith is attorney for the defense in the murder trial and was very busy, so I did not stay very long. He is not enthusiastic for you, but I think will be with you. He has no use for Ford and does not like Osborn.

We left Ithaca, Gratiot County, by automobile at 3:00 P. M.

This county is purely agricultural and has no large towns, St. Johns, the county seat, being the largest—3,000 population. Farmers are up against it for help, paying as high as $6.00 and $7.00 a day for anyone they can get. Three panels had been exhausted in an attempt to get a jury for the trial of which I speak and they are about ready last night to put the case over until Fall because farmers summoned promptly disqualified themselves by swearing that they knew all about the case and had formed an opinion. Political matters have attracted no attention and there will be no interest in the Senatorship except for the action of the President in forcing Ford in. This every republican here, as elsewhere, resents. There will probably be a light vote.

We have the best men available here to help us and the situation is satisfactory, from our standpoint. Fehling is anxious to make a record and will do his level best.

Sincerely yours

Paul.

PHK:S

DEFENDANTS' EXHIBIT NO. 54-fff

June 28th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander:

GRATIOT COUNTY.

Mr. Floyd and I reached Ithaca about 4:15 PM Wednesday, June 26th, driving over from St. Johns, a distance of about twenty-six miles.

We connected right away with Alf. Crawford who had driven from Breckenridge to meet us. Mr. Crawford is a banker and is, perhaps, the most active and influential man in the county. He succeeds to the leadership of Ex-Congressman A. B. Darragh of St. Louis. Mr. Darragh is chairman of our organization and Crawford, who is vice-chairman, will have active charge. Mr. Darragh brought Crawford up, so to speak, politically, and they are warm personal friends.

We expected to see Gaylord Nelson, County Treasurer, who is our active man in this part of the county, and Berney L. Case, County Clerk, but they are out of the city for the day, as was also J. N. McCall, editor of the Herald. They are for us, however.

We saw Webb McCall, J. N. McCall's son, the secretary of our county committee.

Over at St. Johns we had already met N. M. Bradford, Sheriff, who it working hard for you, and O. L. Smith, prosecuting attorney who is for Newberry.

Clarence T. Wheeler, proprietor of the Seaver House, and Hon. C. J. Chambers, former member of the House, and now county Food Administrator, had already gone over to Alma to attend our conference in the evening.

We left at about five o'clock for St. Louis, where we shook hands with Hon. Newell Smith, ex-member of the House, and Hon. Charles W. Giddings, former state senator. Smith is for you and Giddings for Osborn, but sorry for it.

I called on A. S. McIntyre, a druggist and Dr. A. R. Wheeler. These men are leading republicans and are both strong for you.

We then drove up to the home of Mr. Darragh, and found him working in his garden. He is well advanced in years, but still active. After a little visit with him we drove to Alma, where we had supper. With us was W. O. Watson of Breckenridge one of the old wheel horses of the party, and most active in our behalf.

Our active man in Alma is George Sharrar, a real estate man. He turned over to me a bunch of petitions with about three hundred signatures, and will have a lot more.

Alma is growing very rapidly; its industries employ about sixteen hundred men. The Republic Truck is the big thing there. Sharrar had been working in the shops and reports very good success.

Over at St. Johns I had met Charles H. Goggin, attorney, Dr. T. J. Carney, and Dr. R. B. Smith, all interested in the murder trial. Mr. Goggin is O. K. while the doctors did not commit themselves.

Another good friend of ours in Alma is Charles F. Brown editor of the Alma Record. He is a new convert, but is going strong.

Hon. Francis King, former state senator, has gone to Boston. He has not made up his mind yet, but rather leans to Osborn, as they are personal friends.

I also met Leo Gee, a prominent young farmer. He said the farmers around here have no use for Ford.

We had a little conference in Sharrar's office after supper and went over the situation very thoroughly.

All of the leaders in the county are Newberry men. Men like Mike Darragh, Crawford, Watson, Sharrar, Brown, Bradford, McCall, Nelson, Case and Chambers can carry the county if anybody can, and will stand no matter who comes in. This used to be strong William Alden Smith territory, but his entrance now will not greatly affect the situation. I feel very much pleased with the outlook here.

We covered two counties during the day, made four important towns, and turned in about midnight, feeling that we had a fairly satisfactory day.

Sincerely yours,

Paul.

P.H.K.:S

DEFENDANTS' EXHIBIT 54-zzz

June 28th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.
My dear Commander:

CLARE COUNTY.

Our manager in Clare, C. O. Reading, prosecuting attorney and chairman of the republican county committee, drove down to Alma from Clare,—35 miles—to take part in our Gratiot County conference, inasmuch as we could not get over to Clare on this trip.

Clare was a strong Warner county, all of the leaders but Reading being for him. I early lined them up, however, for you as second choice, and when Warner got out they all came to you. Among them are Hon. A. J. Doherty, Clare, former state senator, Hon. Thomas Dorsey, Clare, judge of probate, Hon. George Cummins, Harrison, ex-member of the House, and S. C. Kirkbride, chairman of the county committee. Dennis E. Alward, secretary of the state senate, rather leaned our way from the first, but, on account of his being an officer of the state committee, felt that he should not be openly active.

Reading is somewhat disappointed that Warner got out because he had, it seems, already trimmed up the bunch when he was elected chairman of the county committee, and he wanted to do it again.

He says the outlook is very good and that we will carry the county.

We stayed all night in Alma and left at 8:15 Thursday morning for Ionia County.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 54-hhh

June 28th, 1918.

HON. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander:

IONIA COUNTY.

We arrived in Belding from Alma at 10:38 A. M. Thursday, June 27th, and were met by Hon. J. Clyde Watt, former member of the legislature, and now prosecuting attorney in Ionia County, Hon. Frank C. Miller, ex-member of the House, and now city attorney of Ionia, and Ray N. Colwell, Mr. Watt's business partner.

It happened that this was the day on which the meeting of the Industrial Conference (Allan's organization) was held at Grand Rapids, so that many of the prominent men of the city were away. Among these were Brinton F. Hall and R. H. Hall, both of the Belding-Hall Manufacturing Company, F. A. Washburn, of the Richardson Silk Company, and E. E. Fales, mayor. Fred Underwood, a grocer, and Doctor Geo. F. Smith, a dentist, and prominent republican, were also out of the town. Mr. Miller thinks that Doctor Smith will be all right, also Underwood. Hon. F. L. Warner, a lawyer, was out of town.

Mr. B. F. Hall is not yet committed to any candidate, but R. H. Hall is pledged to you, and I think the former will be with us eventually. Washburn was for Warner because of personal obligations, but gave me his promise some time ago that he was for you for second choice, and I have no doubt that he is now all right.

Mr. Fales is a brother of Bingley R. Fales and thinks you are just right. He has charge of your campaign in Belding and is a hustler.

I called on Lloyd Underwood, brother of Fred and a leading republican, and Lee Cusser, cashier of the Peoples Savings Bank, who are O. K. William F. Sandell, of the Commercial Bank, is for you but was afraid Ford was going to be nominated. I think I talked him out of this.

I met W. E. Little in Sandell's bank, but he did not commit himself.

I called on F. W. Howard, of the Belding Silk Company, and he is a Newberry man. In his office we met W. B. Reed, who did not say how he stood, but undoubtedly will be with Mr. Howard.

Thomas Breckon, clerk in the hotel, who has been here for many years and is well thought of, is O. K.

In the hotel I met George Crawford, a hardware dealer, but he did not commit himself. I also met Wilbur Wilson, who is for Newberry. Mr. Puffer, secretary of the board of commerce, is strong for you and is helping all he can.

We were in Belding for lunch and left at 1:20 for Ionia. We did not spend much time here because Miller, Watt and Coldwell all live here and they thought we could do more good by driving over to Plotland, which we did. While in Ionia, however, we saw Colonel Charles C. Eyster, a prominent merchant and old soldier, who has voluntarily been doing some good work. He had also seen Asa M. Burnett of Belding, the man who circulated your petition in Ionia and who got a fine lot of signatures. On the train, later in the day, we saw Fred Sherry, Pere Marquette conductor, who is for you.

Over at Portland we found things in good shape. F. J. Mauren, editor of the Review, circulated the petition here and got, he said, the finest petition that ever went out of Portland. Every business man in town signed it. We met C. D. Tomy and R. W. Dawdy, clothing dealers, and who have the largest department store in town, E. A. Richards, hardware dealer, and Allan Mack, a druggist, also T. J. Bradfield, whose business I did not learn. These men all signed the petition and are strong for you, with the possible exception of Mr. Tomy, who may need a little persuasion. The boys thought he would be all right.

At four o'clock we took a train back to Belding and picked up Fales and Lloyd Underwood, driving to Greenville for a supper conference of the Montcalm County republicans.

Ionia County is in pretty good shape, I think. They go at things a little differently here and believe that a campaign of personal solicitation is the kind which will win This county our friends think will be perfectly all right if William Alden Smith does not get in. It is part of the old fifth district, of which he was congressman so long,

and if he gets in it will make it harder for us. Old line republicans like K. R. Smith and Grant M. Morse have been holding off waiting for him. General Fred Green, mayor of Ionia, is said to lean to Osborn, but will probably not take any very active part.

Watt, Coldwell, Miller, Fales and Mauren are certainly a strong combination and will do good work. I would not worry at all about Smith and Morse, but wish that Green were with us. Our friends will stick, however, whether the Senator announces his candidacy or not.

Sincerely yours,

Paul.

PHK:S.

DEFENDANTS' EXHIBIT NO. 54-iii.

June 28th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander: MONTCALM COUNTY.

We arrived in Greenville from Ionia County at about 7:00 p.m., Thursday, June 27th, and went to the Winter Inn, where Mr. E. J. Bowman, former Assistant United States District Attorney for this district, who is helping us actively here, had arranged a supper meeting of the leading Montcalm County republicans. Those present were as follows: (21 names) After the supper I talked to the men present about the Senatorial situation in all its phases and they were very interested and enthusiastic. Talks were also made by Mr. Fales, Mr. Haskins, Mr. Bardon, Mr. Northrup, Mr. Avery, and Mr. Floyd.

Mr. Northrup will be our county chairman. He is a banker of Lakeview and I have known him for a good many years. He used to be in Lansing in the Auditor General's office when I was in the State department. We were neighbors there. He has not been active in local politics and this is fortunate, because there has been a bitter county seat fight on there for years and almost everyone is mixed up in it somewhere. Moreover, Fred is a fine fellow, clean, popular and a hustler. We could not

have found a better man. Mr. Cowin will be secretary of the committee.

Montcalm is another agricultural county, and yet there is quite a heavy industrial vote in Greenville. The mayor is strong with this vote and will get it for us. Mr. Rardon, in his talk at the meeting, sounded a note of warning to those present that they will have to get out and hustle to beat Mr. Ford. I, of course, emphasized that strongly, and I think all present realize the necessity for putting in some good hard work. The meeting was a success and I feel very glad that we had it. Mr. Bowman was a little doubtful whether it would work or not, on account of factional feelings, but there was the utmost harmony. Bryant Avery, editor of the Greenville Independent for many years, and a former officer in the Senate in Washington, and whom you probably know, is, as he said, "on the fence." He is neither for Ford nor Osborn, and is not quite sure that you can win. Personally, he is not very influential, but the paper has a wide circulation and we hope we can get him lined up. I am enclosing herewith a form of letter which I would suggest that you write.

Hon. L. M. Miel, judge of probate, is for you, but could not be present on account of sickness in his family.

There is only one active republican who is not lined up with us, and he is Perry Youngs of Stanton. He could be lined up, but as soon as he gets in there are some other people who will get out, so we have decided to let the situation remain just as it is.

This morning we had three-quarters of an hour between trains at Howard City and I made calls on a number of the business men. Mr. Haskins, editor of the Record, who is on our publicity staff, introduced me. Those I met were, (Here follows 13 names).

Hon. A. N. Shook, of Coral, former member of the legislature, was on the train and I had a few minutes talk with him. I had not seen him in many years. He is a fine chap, but so far has taken no interest in the Senatorial campaign. We got him stirred up and I am sure that he may now be counted on.

We left at 8:40 for Big Rapids.

Sincerely yours, Paul.

DEFENDANTS' EXHIBIT NO. 54-kkk.

June 30th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander: OSCEOLA COUNTY.

We arrived at Evart at noon, Friday, June 28th, driving twenty six miles from Big Rapids, in Mecosta County, and had a long conference with George A. Glerum, Banker, former county clerk, chairman of the republican committee, and our manager here.

Glerum said Osceola County is in very satisfactory shape. William Alden Smith is to deliver the Fourth of July oration here and if he becomes a candidate will probably make this his opening speech. Senator Smith is not popular here. It seems that the ladies of the city endeavored to put on a campaign several years ago to build a theatre and tried to get William Alden to come up and make a speech for them. They got Glerum to write the letter, but the Senator never replied. Then they wrote him and he did not reply. They have not hesitated to say what they think about Smith ever since.

We also called on George W. Minchin, editor of the Evart Review, who is very strong for you and is boosting all he can through his paper.

We then drove over to Reed City, a distance of sixteen miles, and made a number of calls. Thomas R. Welsh, of the Welsh Manufacturing Co., a leading republican, is with us, also Hon. A. M. Fleischbauer, member of the constitutional convention, justice of the peace, chairman of the republican county committee, etc., and he is for you. He called up O. W. Clark, cashier, Commercial Savings Bank, and A. W. Huckle, publisher of the Osceola County Herald-Republican, who came over to the office and we talked things over. Everything had all been set for you, but William Alden Smith's prospective candidacy had unsettled them somewhat. I think we got them on the track again, and the paper will undoubtedly come out for you next week.

We also met Thomas Horner, Lumberman, who has been reported to be for Osborn, but who will be with the crowd here. You will remember that I spoke of his

lumber interest in the Upper Peninsula, their mills being located at Newberry. M. M. Callaghan, hardware dealer and prominent republican, was out of the city, but has already written me pledging his support. We saw Theo. Schmidt, another leader, who did not commit himself, but who will do as Callaghan says.

There are as many factions in Reed City as there are leaders, but, due to Glerum's clever work, I feel confident that they will all be with us.

While we were in Mr. Fleischhauer's office Will A. McDowell, editor of The Tustin Times, came in. It develops that his paper on Friday had just come out with an editorial in favor of Ford, and the boys were all sore. They say they will win him over yet. I had a talk with McDowell on the train from Reed City to Tustin and discussed Ford, without referring to the editorial in any way. I did not antagonize him in his attitude, but showed him how ridiculous Ford's candidacy is,—not only ridiculous but dangerous. While his paper has not a large circulation, it of course cuts some figure; moveover his attitude reflects that of Hon. John M. Perry of Tustin, former member of the House, ex-speaker pro tem. I know John very well; he is apt to be an "off-ox," but is not very popular.

Glerum seems to have the situation fully in hand and may be counted on to come through in good shape.

We left at 5:30 for Cadillac.

Sincerely yours. Paul.

DEFENDANTS' EXHIBIT NO. 54-LLL

June 30th, 1918.

Hon. Truman H. Newberry, P. O. Box No. 908, New York City.

My dear Commander:

WEXFORD AND MISSAUKEE

We arrived in Cadillac, Wexford County, at 6:40 p. m. Friday, June 28th, from Osceola County, and were met at the train by William H. Yearnd, one of the leading attorneys and our manager, also Hon. Fred C. Wetmore, ex-state senator and active in state politics.

We went to the Hotel McKinnon, where supper had been arranged for and there I met our Wexford County friends and a delegation from Missaukee County which

had come down from Lake City. Those present at the meeting were as follows: (Wexford County and Missaukee County, 12 names).

The meeting was an interesting one. After Mr. Floyd and I had discussed the campaign, talks were made by Messrs. Buck, Wetmore, Breen, Hall and Perry. Mr. Wetmore is chairman of the Wexford County war board and said he has had many talks with farmers in this vicinity and that they are all posted on the situation, knew all about Edsel Ford, and were very bitter about it. He told of a conversation he had that day with a prominent farmer who said, "my boy had to go to war; Edsel Ford is not a d—— bit better and I will be ———— d——— if Ford gets into the United States Senate with my vote." There may be a lot of people in Michigan who are going to vote for Henry Ford, but I have only met one man this week who was for him.

We had a round-table discussion which lasted until a late hour. They all appreciate the gravity of the situation and will do their utmost.

These gatherings are most helpful in getting "pep" into the campaign, which is, of course, so necessary.

I think these two counties will be all right.

Sincerely yours, Paul.

DEFENDANTS' EXHIBIT NO. 54-mmm.

(Telegram) Detroit, Mich.
11:35 A. M. June 30, 1918.

Hon. Truman H. Newberry, Biltmore Hotel, New York.

Have concluded good week in Western Michigan. Have visited Clinton, Gratiot, Ionia, Montcalm, Mecosta, Osceola and Wexford Counties. Condition entirely satisfactory. Ford candidacy not taking with farmers who are bitter against Edsell. Letters MF twenty fifth received and will have prompt attention. William Alden's possible entry will not greatly disturb situation here.

Paul H. King.
355 P. M.

DEFENDANTS' EXHIBIT NO. 55

July 1st, 1918.

My dear Commander: MECOSTA COUNTY.

We arrived at Big Rapids (the home of Ex-Governor Ferris) by train from Howard City at 9:30 a. m., Friday,

June 28th, and called on Edward Dresser, county clerk, and George E. Hurst, county treasurer, our chairman and secretary, respectively. They are strong men in this county.

Mr. Dresser went with me to see Hon. A. B. Cogger, former circuit judge, who has just suffered a slight attack of paralysis and is confined to his home. He knows the situation thoroughly in this part of the state and gave us some good advice.

We then went down to see A. W. Miles ("Paddy," as he is commonly called) who runs a cigar store, which is a rendezvous for farmers when they come to town. "Paddy" is an agitator right and talks from morning until night. He is for Mr. Osborn. I have known him for many years and he is personally friendly. On the day of my visit he was away on a fishing trip, but I left a letter, however, and have hopes of getting him yet.

Wells F. Harvey, former Washington correspondent for the Grand Rapids Press is the editor here and is for you, but he was away today. Doctor George H. Lynch and A. S. Merchant, the sheriff, were out of town, and Hon. H. I. Drescher, probate judge, is ill. I do not know how these three men will stand.

We saw Harry Ladner, register of deeds, and Hon. A. V. Young, shoe merchant and former member of the legislature, who are for you. I met John Knorr in Doctor Lynch's drug store and he talked favorable. We made a Newberry man out of the driver from Reed City to Evart.

The work among the Spanish-American War Veterans here is producing good results. They had an enthusiastic meeting the other night and are getting very busy.

I do not feel entirely satisfied with this county, although we have the best men available. Dresser is pretty well tied up with his work on the draft board, but we impressed him with the necessity of going stronger on the campaign matter and he promised to do so. Miles may stir up some trouble, but Young is a good man. I wish Judge Cogger were not laid up, as he would be most valuable. His influence, however, will be helpful.

We are going to give this county careful attention and I believe we will work it out.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 55-a

Letter dated July 4th, 1918 from Commander Newberry to Mr. King.

Dear Paul:

This is to acknowledge your two letters of the 30th and your letters of the following dates,—June 27th, Clinton County; June 28th, Ionia County, June 28th, Montcalm County; June 28th, Clare County; June 28th, Gratiot County; June 30th, Wexford and Missaukee; June 30th, Osceola County; and July 1st, Mecosta County, all of which I have greedily devoured.

About the Inland Steel Castings Company,—when our present political activities are over and when I can get time to see Mr. S. W. Utley, I will ask him to go down and look over the proposition and see what practical suggestions he can make. As you may know, he has built the Detroit Steel Casing plant, and is thoroughly familiar with the manufacture of steel and iron products and the marketing of them. I answered your telegram which came yesterday hoping you would bring Mr. Floyd with you when you next came to New York; and knowing how busy you are it would seem desirable that you defer your trip until you have some real question to discuss or some real decision to reach.

Your letters are so hopeful that I am wondering sometimes if you have full information concerning the frame of mind of the industrial voters. I do not believe many of them will take the trouble to vote for Henry Ford or anyone else unless there is some widespread movement that I know nothing about. The farmers and men interested in public affairs whom you have seen will, of course, be active throughout the state, but if we are to be successful, the organization in Detroit must interest the industrial element to vote on our side. Of course, it would be useless if the vote were to be seriously split; or, possibly you have decided that it would be best not to take any further steps at the present time.

Have you any means of knowing whether the NEWS or FREE PRESS contemplate any aggressive attitude in favor of any candidate? At present they seem to be friendly to Ford, but certainly are not urging him on the public.

I have noted in all of your letters the great amount of constructive work Mr. Floyd is doing, awakening

(One line did not take an impression on the copy)

who are interested in good government, and I hope soon to have the opportunity of expressing myself to him on this subject personally.

I feel sure that William Alden will declare himself in his oration today but I cannot get very excited about it as his main strength will come from that part of the community which is swayed by oratory, which at present will all be counted up in Chase Osborn's column. I do know that the Senator has many warm personal friends all over the state, but they are not at all organized or prepared to be of any great material help to him in a primary campaign.

With kind regards,

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
Detroit, Mich.

P. S. Mr. Edwin H. Brown of Grosse Pointe is doing a lot of good work in my behalf. I have written him and enclose a copy of my letter, and wish you would get in touch with him. T. H. N.

DEFENDANTS' EXHIBIT NO. 55-b

(A telegram dated July 1, 1918 from Mr. Newberry to Mr. King at Detroit, Michigan.)

Charles Postal was given the foreign appointment as a reward and at his own request and still desires to go. Please do not wire men in the Navy that you have referred any matters to me. It is destructive to discipline and most embarrassing to me.

DEFENDANT'S EXHIBIT NO. 55c.

July 1, 1918.

Dear Paul:

The enclosed copy of telegram in regard to Postal will, I hope, explain the situation. When he came here for duty I assigned him to a very good station, but he was not satisfactory, and was recommended to be disrated. When he came to see me I had the order cancelled and

found that an opportunity existed for a very fine assignment in France. I, therefore, sent for him and explained the whole matter and he was very pleased to have his rank back again and to get a foreign assignment. I recommended him to the Navy Department and the Navy Department appointed him,—all of which is very complimentary to him and is a wonderful opportunity for service.

You can, therefore, hardly imagine my disappointment in getting the message from you that his father wanted something else, and I am still more surprised when I learned that you had telegraphed him that I would attend to the matter. Of course, you realize that all messages to people in the military or naval service are passed through their superior officers, and so I suppose your message is known to many officers in the service who will certainly think it curious. This will explain why I asked you not to communicate with people in the service telling what I would or would not do.

I immediately sent for Postal and he confirmed everything I remembered about the case, as outlined above, and told me that probably his father's poor health probably accounted for his interference. He hoped his present orders would not be cancelled, and of course, they will not be. I know that you realize that no political consideration of any kind will affect my actions while I am here. This does not prevent my taking a friendly interest in every young man who deserves to get it, whether he comes from my home or not, and I am always glad to hear of them, or of any cases which require personal attention, and I have more pleasure in doing this than the recipient has.

I hope you will understand what I am trying to say and please do not again confuse in any one's mind the fact that I shall never permit politics to affect any actions I take as an officer of the Navy, for I detest and despise any political interference with our military administration.

I am enclosing a very good letter from Mr. Dixon, which I acknowledged receipt.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
Detroit, Mich.

DEFENDANT'S EXHIBIT NO. 55-E.

July 2nd, 1918.

My dear Commander:

CALHOUN COUNTY (second report)

Our friends in Calhoun County, not being satisfied with the progress of our campaign there wanted a second meeting and so I went over last night to talk with them. The meeting was held at the Post Tavern and the following men were present:

(Here follows a list of 24 names)

Hon. Washington Gardner presided and made a very good speech, praising your qualities very highly. At one point he stated, "if there is any person in the state better qualified to be United States Senator it is"—(I wondered what was coming next); then he said, "Mrs. Newberry," paying her a very graceful tribute.

As you will recall, from my first report, a Committee was appointed to perfect an organization at the other meeting. This committee selected a chairman, suggesting W. K. Kellogg of the Kellogg Toasted Corn Flake Company, but Mr. Kellogg has been so busy that he has not done anything about it and our friends there became impatient and decided to get action at once, and, in order that no one might be offended and no conflict result, I suggested that at this last meeting another committee be appointed to act in conjunction with the first, which was agreed to. The new committee is composed of Deland Davis, Washington Gardner, Thomas Bigger, John Sallows and B. G. Doolittle. This gives representation from Battle Creek, Albion, Marshall and Tekonsha. The committee was instructed to report within a week.

I made a speech at the meeting, discussing the situation, which was very well received. Speeches were also made by Mr. Owen, Mr. John Davis, Mr. Curtis, Mr. Mustard and Mr. Gardner.

The feeling is certainly good here, practically every business man down town having signed your petition. They are thoroughly aroused against Mr. Ford and there seems to be no Osborn sentiment at all. I am assured that some of William Alden Smith's friends, such as A. B. Williams of the Postum Cereal Company, will stick. I do not know how William J. Smith, of the Old National

Bank, will act, but all his friends will stay with us so it really will not make much difference.

We left on the midnight train for Chicago.

Sincerely yours,

Paul.

DEFENDANT'S EX. 55-F.

July 2nd, 1918.

My dear Commander: BARRY COUNTY.

We left Cadillac at 6:05 A. M., Saturday, June 29th, arriving at Grand Rapids at 9:45, and, after an hour at Western Michigan Headquarters, took the train for Hastings, arriving there at 12:15 noon. There we were met at the station by Archie A. Anderson, Cashier of the City Bank, and our chairman in Barry County, and A. F. Morris, our Secretary.

We went directly to Anderson's office and there I met Hon. W. W. Potter, ex-state Senator, a prominent attorney, and head of the draft board. He is for you.

We then went over to the hotel and had lunch with 34 of the livest Republicans in the county. There was an especially good attendance from the City and a number from the country, but the farmers are so busy that it is pretty hard to get them away from home these days. Those present were as follows:

(Here follows a list of 34 names)

Anderson tells me that the Ford stuff will not go in Barry County at all, and there is apparently nothing heard about Osborn. The Cook boys are friendly to Mr. Osborn personally, but will not support him. They may not say much in their favor, but they certainly will not hurt us any. Mr. Anderson states that the Republicans of the county are so well lined up that he does not think William Alden Smith will cut much figure if he gets in.

Things are very satisfactory here and it looks as though we would carry the county. I made a speech, but on account of its being Saturday noon and a busy day, others were not called on.

I left at 2:45 P. M. for Battle Creek by auto to catch a train for Detroit.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT 55-G

(Telegram from Truman H. Newberry to Paul H. King, dated July 3, 1918.)

"Expect to spend Saturday night at Watch Hill returning here midnight Sunday. Glad to see you but lets postpone it until the necessity arises and bring Floyd with you."

DEFENDANT'S EXHIBIT 55-H

(Telegram from Paul H. King to Truman H. Newberry, dated July 3, 1918)

"Thought would come down tonight but note you are to be busy tomorrow. Could be there Friday or Saturday if desired. Everything all right."

DEFENDANT'S EXHIBIT 55-O.

July 6th, 1918.

My dear Commander:

I am inclosing herewith the draft of a letter which I will be glad if you will write to Mr. Branton. It is, of course, a suggestion only, and you will naturally make any changes that occur to you. Something along this line is what we want. He is an old railroad man and has a great deal of influence among laboring people. I will be glad if you get this right out as he has his vacation the first of next week and is going to devote considerable attention to your candidacy voluntarily and unsolicited.

I am inclosing herewith one of our campaign buttons, which I hope will appeal to you.

Yesterday I had a very pleasing talk with George Miller. I have kept away from him for a long time, but the News cartoon yesterday looked a little hopeful, so I dropped in to express my appreciation. He was very cordial and manifested interest in the progress of the campaign. I told him very frankly that if there is anything that I should say or do to enlist the support of the News I want to do it. He gave me a pleasant line of conversation on the functions of the News in public matters, which, he said, was to simply present the facts and allow the people to draw their own conclusions remarking that he did not know how anybody would go about it to get the News' support. I told him that this was my idea of the matter exactly—that when the News decided to

whom its support should be given, it would, of course, go that way and nobody could change it; that if there was any information or arguments that I could bring to bear before that time, I wanted to do it, but if not, I wanted to go on about my business. I suggested that possibly a talk with Mr. Booth might not be out of the way, and he agreed with me, so I shall see Mr. Booth at an early date,—probably not until Friday or Saturday of next week, however, as I shall be away. I told Mr. Miller that I certainly did not want any one connected with the News to feel that we do not care for its support, because we certainly do care, realizing how influential it is, etc. It was a good frank talk,—no subserviency about it, and I came away feeling glad that I called, although unable to point to any tangible result. Its editorial today is not bad. I think we get all the best of the argument. I am enclosing it for your information.

I called on Pliny W. Marsh this morning. He is connected with the Detroit Citizens' League, which put over the new charter. Mr. Marsh is under some obligations to me and was very friendly. I laid the Wayne County situation before him, stating that Mr. Oakman was interested in your candidacy long before I was, and, in reality, I had no jurisdiction over him at all; that I knew if Wayne County were lost to us I would be given the blame and that if it went the other way, he would get the credit, although, personally, I did not object to that. This was the point, however, that Mr. Marsh objected to. He said, it being generally understood that Mr. Oakman was the Newberry manager in Wayne County, Mr. Oakman would, if we won out, be the king in county politics for a long time to come, which he did not think was a desirable thing. In order to get around this I suggested that we might have a campaign committee here as in other counties,—in fact, this is the only county in the state where we are depending on just one man,—a very poor practice, I think. Mr. Marshal said he would advise with me in the selection of such a committee, but thought it best not to be publicly affiliated. I think maybe I can get this notion out of his head. Anyway, he will help all he can.

I had a long visit with Harry Nimmo yesterday and we went over the matter thoroughly. He told me that the Ford Motor Company had cancelled its subscription to the "Saturday Night" on account of the recent Ford pub-

licity, which "gentle slap on the wrist" did not disturb him any.

William Alden Smith is quietly getting ready to run. You probably noticed his semi-announcement at Evart on the Fourth. Some of his friends are organizing a committee in Grand Rapids to look after his candidacy there. Robert W. Irwin, of the Phoenix Furniture Company was chosen president, Hon. Thomas J. O'Brien, Vice president, Earl F. Phelps, secretary and Henry Herpolsheimer, Treasurer. This was about the best kind of a committee they could have chosen, from our standpoint. Phelps is the only good man in the bunch. Irwin is personally very unpopular; O'Brien is politically dead; Herpolsheimer has no political influence to speak of. They are also a little late in getting started.

I am sending the letters out to voters and have already mailed over fifty thousand. The return postal card pledges are coming back by hundreds, and this is a very good sign.

We counted up our newspapers today and find that we have two hundred one which are openly supporting you. This is quite remarkable.

Our Speakers' Bureau is getting organized and is rapidly getting in position to furnish speakers for grange picnics, rallies, etc.

I am going on the boat tonight to Niagara Falls to get a little rest over Sunday, as I have a hard week ahead of me. I am feeling fine, but a little tired. I hope you are all right.

With best regards, I remain,

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT 55-Q.

July 8, 1918.

Paul H. King,
310 Ford Building,
Detroit, Mich.

Yours July sixth just received. Regret I can do nothing to affect itinerary of Great Lakes Fleet.

Truman H. Newberry.

DEFENDANT'S EXHIBIT 55-R.

July 9, 1918.

Dear Paul:

I am in receipt of your letters of July 5th and 6th, and hope you will soon learn from Mr. Postal that his anxiety was unnecessary and that he realizes that I really made extraordinary efforts to see that the boy was given an unusual opportunity for most interesting and useful foreign service.

Your information about the Wayne County situation does not surprise me at all, and I am quite prepared for any kind of a shift that Mr. Oakman may find that his personal political future requires. Your idea of having a separate organization in Wayne County, possibly in cooperation with Pliny W. Marsh, or the Detroit Citizen's League, is, I think, a very necessary precaution, as a change in Mr. Oakman's mind under the present conditions would leave us without the slightest organization in the very place where we must secure a large favorable vote in order to insure success.

From every one of your letters I gather a broader view of the immense amount of organization work you are personally developing all over the state. I wonder at your untiring vitality which permits all the mental and physical strain that this involves.

I have not heard much about the Business Men's Committee, beyond the fact that it is organized, but I suppose you will tell me all about it when I see you here on Saturday.

I shall try to come to the hotel earlier on that afternoon and we will plan on having the entire evening together, and also the balance of the time until you leave with the exception of two or three hours, which I must spend at my office on Sunday morning.

The Farmer's Committee is an excellent idea, and I hope this committee will make the farmers realize just how Ford has used his wealth and influence to keep his boy home for no other purpose than to help him make a little money, while the farmer has been unable to keep his boy on land where his services are absolutely required.

I have written a letter to Mr. Branton as you suggested and inclose copy, together with copies of letters written to two or three other people at your request.

Your interview with George Miller is most illuminating and quite in accordance with my impression of his attitude. The fact that you were glad you had been there when the interview was concluded is proof enough that the results were good, and I think it was an excellent idea to have him realize that we are not indifferent about the attitude of the News, but ,in fact, are most desirable of their support, which, of course, we will not get anyway as long as they believe Ford has a chance of success. It is hard luck that there is no paper in Detroit strongly on our side but we anticipated that when we started, so we can hardly call it a discouragement. Your statement that there are 201 papers openly supporting me suggests the inclosed clipping which I cut from this morning's New York Sun, and which ought to be good ammunition for the 201 papers you speak of and any others who are not behind the Hearst-Wilson candidate.

I am inclosing some petitions which went first to Grosse Pointe and were then forwarded to me from there.

I am delighted that you have taken the trip to Niagara Falls and I am sure it must have been restful, and it should do you lots of good.

A cheerful letter from Roger M. Andrews just arrived, a copy of which is inclosed. I will answer it after I see you here on Saturday when we will discuss the question of sending out a personal letter which he suggests.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
Detroit, Mich.

Mr. Murfin: Mr. Dailey and I agreed yesterday that the enclosure in this case would be read.

DEFENDANT'S EXHIBIT 55-S.

Copy.

The Andrews Publications.

Menominee, Mich., July 5, 1918.

Commander T. H. Newberry,
280 Broadway,
New York.

My dear Commander:

I thank you for your cordial letter of the 29th,and hope you will find time to watch the Cloverland Magazine from

month to month. I am glad that you appreciated the bound volume which it gave me so much pleasure to send.

I attended a meeting in Chicago last week with Mr. King and others of your friends. We are all agreed that the outlook continues to grow better every day. The Ford candidacy has traveled on a flat tire since it started and we hear little or nothing about it up here, and certainly nothing flattering to Mr. Ford or his ambitions. Osborn is working in various parts of the Upper Peninsula but with apparently very small success. Reports which come to me from this section of the state say that the voters are considering only yourself and Mr. Ford as candidates, and that the conviction seems to be present everywhere that you will sweep the state at the primaries.

I do not desire to give any information which may be more of my own hopes than a reflection of actual conditions, but these facts speak for themselves and they are absolutely true as reported to me by the considerable number of active friends who are working up here in your behalf.

I have no suggestions to offer at this time but to express as strongly as possible the hope that you will absolutely arrange to send out at least one letter signed by yourself to each voter in the Republican party in Michigan before the primary on August 27th.

With kind personal regards, believe me,

Very cordially yours,

s/ Roger M. Andrews.

DEFENDANT'S EXHIBIT NO. 55-T.

Telegram from Mr. King to Commander Newberry dated July 12:

Cannot leave for East tonight holding big Meeting here will come down Saturday night if OK will be in Detroit tomorrow Saturday.

Paul

Mr. Murfin: On the bottom, if your Honor please, in writing is written this:

Will be mighty glad to see you Sunday but please don't come if you need rest. I have nothing important here.

T. H. N.

DEFENDANT'S EXHIBIT NO. 55-U

Telegram to Commander Newberry:

Detroit, Mich. 156 P July 13

Am coming down tonight will be at Biltmore.
Paul H. King.

DEFENDANT'S EXHIBIT NO. 55-W

Detroit, Mich 414 P July 16, 1918

Lieut. Commander Truman H. Newberry,
280 Broadway,
New York, N. Y.
Mr. Mangum enroute will be at Biltmore tomorrow.
Paul H. King.

DEFENDANT'S EXHIBIT NO. 55-bb.

July 17, 1918.

My dear Commander:

Please note the enclosed letter from Guy L. Ingalls, Deputy City Clerk. He used your name as reference without any knowledge on our part and hope there is no objection to it.
He is certainly a splendid fellow and is doing all he can to help.

Sincerely yours,
Paul

DEFENDANT'S EXHIBIT 55-cc

July 23, 1918.

Dear Paul:

I am returning the letter to Mr. Emory, from Deputy City Clerk Guy L. Ingalls, dated July 12th, and I most decidedly object to being quoted as a reference for any people of whom I know nothing. It will certainly lead to trouble because in the course of time I will be asked about these men and will have to say that my name was used without my permission.

Of course, a letter of introduction in these cases will be sufficient for me to endorse anybody whose character, loyalty, intelligence and patriotism you can vouch for. You must also remember that as an officer of the Navy

I cannot make endorsement for people applying for military or naval service.

Sincerely yours,

Truman H. Newberry.

Paul H. King,
Detroit, Michigan.

DEFENDANT'S EXHIBIT 55-ii

Telegram to the Hon. Truman H. Newberry from Mr. King:

Detroit, Mich July 19, 1918

Could not get away tonight Mangum wires meeting may have to be postponed until Saturday communicate with him at Waldorf will come down Friday night leaving here on Detroiter fine meeting today of North end Republican Club Tashmoo Park. Osborn on way east tonight evidently told Times all about it as they have big story first page that National leaders are trying to clear way for him.

Paul.

DEFENDANT'S EXHIBIT NO. 55-jj

Copy of a telegram from Commander Newberry to Mr. King dated July 19th:

Wire received. Osborn statements absolutely incorrect. No conference is to be held and no reason for your coming here. Urgent.

Truman H. Newberry.

DEFENDANT'S EXHIBIT NO. 55-kk

July 20, 1918.

Wayne County.

My dear Commander:

I have spent a very busy week here in Detroit. I have not gotten as close to the local situation as I would like, but have made progress on the "Breasing-in" process. Milt Oakman has apparently waked up and is going strong. He is now working out a precinct organization which I am sure will get results.

I went on the excursion of the North End Republican Club for the express purpose of getting a line on the sentiment among the active republicans. It looks very good indeed. There were only two men on the boat so far as I can learn, who are opposed to us—Ex-Governor War-

ner and John Haggerty. I understand that Haggerty has sent out Ford petitions to the city and village clerks. They were certainly a lonesome pair, keeping by themselves during the entire day, and not showing up at all for the speaking program. I made some brief remarks which were liberally applauded. The crowd was not quite as large as usual, but was very enthusiastic. I will make up a detailed report tomorrow on the men I met and send it to you a little later.

During the week I have called on Mr. Wright, one of the owners of the Journal and went over the situation very thoroughly. He is very much "up in the air." Last year some time he gave Mr. Osborn a half promise that he would support him, supposing that the Ex-Governor would have Colonel Roosevelt's backing. Now that he is satisfied that Mr. Roosevelt is for you, he is as he says, in rather an embarrassing position. He is a stranger here and knows nothing whatever about Michigan politics. His main reliance is Charles Cameron, who is a personal friend of mine and who I think will exert a friendly influence. I have had a good many talks with Cameron and am sure that he will do anything he can.

On the trip to Tashmoo I had a long talk with John Dunnewind, the city editor of the Free Press. I told John, who is a personal friend also, that I would like to see Mr. Stair, if he, Dunnewind, thought it advisable. John replied that on certain indications which he did not mention, he thought the Free Press was going to be with us, but that it would not hurt me to take a talk with Mr. Stair. As soon as he returns to the City Dunnewind is going to let me know. I have had no further conversation with the News and of course it is useless to talk to the Times.

Jay Hayden called on me today when I was out, and I do not know what he may have had in mind. The News for the first time sent a reporter over to the office yesterday and I gave him an interview. He did not get it quite as I said it, but really did very well.

As I told you, the Detroit Citizens' League is friendly and Mr. Marsh will assist where he can. Mr. Leland, the president, is strong for you and his will be a big help. Deputy City Clerk Ingalls, candidate for City Treasurer, under the new charter, is doing some active work.

In the townships we are getting going in good shape. Ira Wilson of Livonia will handle the township of Redford, Livonia, Plymouth, Canton and Nankin, Milton Carmichael of this city the townships of Ecorse, Monguagon, Brownstown and Grosse Isle and Deputy Commissioner of Schools Fisher the townships of Taylor, Romulus, Van Buren, Sumpter and Huron. We have not placed anyone in charge of Greenfield, Gratiot, Hamtramck and Grosse pointe, although we have in mind men to look after things in each one. Of course, the larger part of each has now been taken into Detroit and Highland Park.

E. W. Yost, Commissioner of Schools, is taking an active interest and will be very helpful. Milt will probably have his own people also, but we are working together on the proposition so that there will be no conflict.

I am enclosing copy of report made to me by B. F. Emery of our office for your information. I have made some notations on it which spoil the looks of it, but do not detract from its informational value. There will not be time to copy it between now and train time, so I am letting it go as it is.

I am leaving for a trip through northeastern Michigan to be gone all of next week. Enclosed please find copy of my schedule, so that if you should wish to reach me direct you can do so. The week following I will spend in the Thumb territory and the week after that will clean up all of my outside trips, leaving the balance of the time for work here at home.

With best regards, I remain,

Sincerely yours,

PAUL.

SUNDAY:

Leave Detroit 4:45 PM Sunday July 21, 1918. Arrive Alpena 6:30 AM Monday, July 22, 1918. Breakfast at Alpenda.
Leave Alpena 7:30 AM Monday by auto, enroute to Cheboygan.
Stop at Rogers for dinner meeting.

MONDAY:

Arrive Cheboygan 3:00 PM Supper meeting at Cheboygan.
Spend night at Cheboygan. Onaway

and Millersburg men to attend. Tuesday, July 23, 1918.
Leave Cheboygan 9:00 AM
Arrive Mackinaw City 11:00AM

TUESDAY:

Note: The actual driving time between Cheboygan and Mackinaw City should not be over three-quarters of an hour, but schedule is arranged so as to make any stop you may want to, such as Freedom and Lakeside.
Dinner at Mackinaw.
Leave Mackinaw 2:00 PM
Arrive Petoskey for 6:30 Supper.
Over night at Petoskey.
Wednesday, July 24, 1918.

WEDNESDAY:

Leave Petoskey 8:00 AM
Short stop at Wolverine and Vanderbilt.
Arrive Gaylord for dinner meeting.
Leave Gaylord 2:30 PM for supper meeting at Grayling.
Roscommon county men to attend.
Stay overnight at Grayling.
Thursday, July 25, 1918.

THURSDAY:

Leave Grayling 9:00 AM for Alpena.
Dinner at Atlanta (no meeting)
Supper meeting at Alpena.
Oscoda, Alcona and Montmorency men to attend.
Stay overnight at Alpena.
Friday July 26, 1918.

FRIDAY:

Leave Alpena 7:22 AM via D & M for Tawas City.
Arrive Tawas City 9:15 AM
Dinner at Tawas City for Ogemaw-Iosco County men.
Leave Tawas City Friday PM by auto for Standish.
Overnight at Standish.

SATURDAY:

Gladwin and Midland.

DEFENDANT'S EXHIBIT 55-qq

July 22, 1918.

Dear Paul:

Replying to your letter of the 20th, I have written a reply to Dr. Vance thanking him for his interest.

In regard to Dr. Dickie, I am sorry you did not let me know before using his letter as I have considerable more information on the subject of Dr. Dickie's activities than you have, and I would not have had his letter used under any circumstances. I do not desire his friendship or his support.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
Detroit, Michigan.

DEFENDANT'S EXHIBIT NO. 55-rr

Bay City, Mich. July 22, 1918

Hon Truman H. Newberry,
280 Broadway,
New York City.

Have been trying to get time to suggest state and congressional chairman for next of kin division while I know many men do not know whether they have sons in service is there any objection to writing our friends around state asking for suggestions. Please wire me Detroit.

Paul H. King.

DEFENDANT'S EXHIBIT NO. 55-ss

Telegram from Commander Newberry to Mr. King, dated July 22nd:

Wire received. Am being pressed for next of kin nomination. Suggest you wire instead of write around state asking for suggestions. Please rush.

Truman H. Newberry.

DEFENDANT'S EXHIBIT NO. 55-aa

July 23rd, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander:

Presque Isle County.

I left Detroit at 4:45 PM Sunday, July 21st, for northeastern Michigan, accompanied by Mr. Sibben. We arrived at Bay City at 9:15 and got out some letters and telegrams from there.

Mr. Earle J. Davis, our Saginaw County Secretary, traveled up to see me and we went over the conditions in that county. He says they are very promising.

We left at eleven o'clock for Alpena, arriving there at 5:30 AM Monday. We were met at the train by Alex Green, former county treasurer, now an accountant, and auditor, who is our county chairman, and R. E. Prescott, our chairman in Alcona County.

After breakfast at Mr. Green's home we went down to the hotel and saw Captain Tufts, who is looking after marine votes on the eastern side of the state. He is making very good progress. At the hotel I met Arthur H. Wentz, an insurance man, who is the secretary of our Alpena County Committee, and Arthur Wilkins, assistant superintendent of the Detroit & Mackinac Railroad, who is with us. I will make mention of these Alpena County people again in my report on that county. We just missed seeing Hon. Fred H. Woodworth, state dairy and food commissioner, and Lee H. Pryor, assistant attorney general, who is helping Mr. Woodworth in the enforcement of the prohibition law. Mr. Woodworth is with us, but Mr. Pryor, who is a Groesbeck appointee, is not. At the station we met Samuel Calcutt, a farmer who was down to the station to see another one of his boys, the second, off for the war.

We then started for our drive through Presque Isle county, making for Rogers City, a distance of 43 miles.

We met John Keating, a farmer, who is with us. We called on George Christopherson, a storekeeper at the little hamlet of Lear, but he was out. The post office address of these last three men, Calcutt, Keating and

Christopherson, is Lachine, they all live in Alpena County.

We crossed the line into Presque Isle County at about 9:30 AM and arrived at Rogers City at 10:30. Rogers City is the comiag town of the county. Here is located the Michigan Lime Stone and Calcite company, which is furnishing lime stone to the steel plants of the country. They do business on a big scale and employ about six hundred men.

We went directly to the Presque Isle County Savings Bank and met Rudolph Duehtgen, second Vice President, who is Chairman of our committee in the east end of the county. Presque Isle County republicans do not get along very well together so we had to divide the county into two parts.

At the bank we met C. H. Osgood, cashier and G. B. Grambau, assistant cashier, also George Endress, manager of Hoefts Department store. Mr. Hoeft, also president of the bank, was out of the city with his son in law, Hal Whitcley, the editor of the Advance. They were both in Detroit. Mr. G. Covey, Vice President of the bank, was also out of town. Whiteley I have known ever since he was a baby, and he is with us strongly on account of our personal friendship. We met Carl D. Bradley, the general manager of the lime stone plant, who is an up to date business man and who promptly said he thought you were the man. He will do all he can to help.

We drove out to the plant and met Charles Richards, the time keeper, who is the real politician here and C. B. Fisher, chief electrician. Mr. Richards says you will get almost the entire vote of the plant.

H. G. Kitchen proprietor of the Kitchen Hotel, where we had lunch, is O. K.

In the afternoon we called on the county officers, who are all with us. The men we saw were Frank Adams, Register of Deeds, Herbert F. Hein, Treasurer, Eugene De Vincent, county Clerk. I also met Dr. B. G. Larke, the examining physician of the draft board, and Al Lehndorf, hardware dealer, Duehtgen's brother-in-law. These two men are with us.

I did not see Dr. M. H. Nester, physician, E. R. Lehndorf, son of the one just mentioned, nor Charles Vogelheim, fisherman, who are all influential men, and with us, as I had to leave for Millersburg, a distance of 26

miles. The roads were heavy, mainly sand roads over pine plains and the heat was simply intense.

We arrived at Millersburg at 4:00 PM and called on the banker, C. R. Willings, who is looking after your interests here.

From there we drove to Onaway, 10 miles, arriving at 4:45. Here we saw J. Frank Morford, banker, and A. E. DeVine, attorney, who are in charge here, also C. J. Fish, a pool room proprietor, John Merritt, proprietor of a soft drink establishment. E. J. Lobdell, president and Treasurer of the Lobdell-Emery Manufacturing Company, handle and hardwood lumber manufacturers, the big manufacturing plant here, F. A. Brice, editor of the Outlook, and Hon. Merritt Chandler, member of the Constitutional convention and a prominent farmer. These men are all for you, with the possible exception of Fish who did not commit himself. He works for Willings, however, so that I think he will be all right.

I did not have chance to call on Jerry Clemens, who runs a boarding house for shop employes, but am writing him.

Just before we left we met A. V. Hinkley, the rich man of the town, but did not learn his sentiment.

We left at 5:30 for Cheboygan 32 miles away.

This was a most encouraging day and I feel very much pleased with the outlook in this county.

Mr. Green and Mr. Prescott are going with me on the entire trip in Mr. Green's car. They are both enthusiastic and are doing good work.

Sincerely yours,

Paul.

PHK:S

DEFENDANT'S EXHIBIT 55-vv

July 24th, 1918.

My dear Commander: CHEBOYGAN COUNTY.

We arrived at Cheboygan Monday evening, July 22nd, at eight o'clock, crossing the line into the county from Presque Isle at about seven o'clock. We had a puncture and this delayed us somewhat.

We drove directly to Dodge's hotel at Mullett Lake, about six miles south of Cheboygan, where our friends had gathered for a supper meeting. The arrangements

had been made by Mr. J. C. Rittenhouse, formerly mayor of Cheboygan and ex-Chairman of the republican county committee. Mr. Rittenhouse is in the garage business in the city and is well acquainted throughout the county. I think we are fortunate in securing his services.

At the supper were (Eleven names)

These men are all strong Newberry men.

Alex Green, of Alpena, and R. E. Prescott, of Lincoln, who are with me, were also at the meeting and all three of us made talks, which were well received.

Mr. Rittenhouse has perfected a fine organization throughout the county in the form of a committee with a membership from each of the twenty townships and from each one of the five wards of the city of Cheboygan.

After the supper we drove back to town and Mr. Rittenhouse and I talked over the details of the campaign until a late hour.

The next morning we arose early and I called on Mr. Glezen at the State BAnk. We had had a little mix-up in getting started in the county, but fortunately no one's feelings were hurt. Mr. Glezen was first asked to take charge by one of my field men and proceeded to act. When I discovered this I knew that he would not do because he was treasurer of the Red Cross in the county, a member of the War Board and has had charge of the Liberty Loan campaigns. Chase Osborn has been trying to make out that I have been manipulating the War Board machinery of the state in your favor, which is, of course, not true, and I did not wish, in this county, where Osborn is strong, to have his opposition headed up by a War Board man. Glezen had not fully understood this situation, but I made it clear to him and he now agrees that it would be better for him not to be a part of the formal organization.

I then called on W. H. Gamble, editor of the Tribune, who is personally for Osborn, but whose paper will be neutral.

We went to see Al Weber, editor of the Democrat, which is, in fact, independent, and he is for you.

We left at 9:15 for Mackinaw City, accompanied by Mr. Rittenhouse.

Here I tried to see Hon. Samuel P. Smith, member of the legislature, but he was out of town. I met his son, William Smith, proprietor of the hotel, F. J. Potter, dep-

uty sheriff, Del Wheeler, express agent and our committeeman here, Herbert Galbraith, Michigan Central Agent, and C. A. Rouche, a railroad engineer. These men are all for Newberry; in fact, the sentiment at Mackinaw City is very largely for you. Out of a poll taken on the street recently the vote was, Osborn 2, Newberry 14, Ford 7, Smith 2, undecided 2.

After lunch Mr. Rittenhouse left for home and we started for Petoskey, in Emmet County, about which I will tell you in report on that county.

After we had finished with Emmet we started this morning for Gaylord, Otsego County. In this trip we were obliged to cross the southern end of Cheboygan County and made stops at Indian River and Wolverine, C. A. Campbell, our committeeman at Indian River, was out at his quarry, eight miles from town, so we did not see him, but talked with his younger son, Arthur Campbell, and left a message.

We then drove on to Wolverine, where we found awaiting us a delegation which had driven up from Otsego County. Here we also met J. E. Wiggins, cashier of the Wolverine State Savings Bank and our committeeman, Doctor Charles Saunders, the dentist, and Charles D. Barghoorn, attorney.

The sentiment here at this point is splendid and they assure us that there is no one else talked of but yourself. The county is in good shape now, although we have a fight on. Crawford Reilly, mayor of Cheboygan, and most of the county officers are for Osborn. If we break even here I will be pleased.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT 55-ww

July 23rd, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander: Emmet County.

We left Mackinaw City, Cheboygan County, for Emmet County at 1:00 P. M., Tuesday, July 23rd, and reached our first stop, Carp Lake, at 1:30. Here we saw M. M. Hunt, proprietor of the general store. We had a good

talk with him and he said the sentiment in this vicinity is practically all for you.

We then drove on to Levering and met the editor of the Levering Local. This paper is strongly advocating your nomination. I also called on Edward L. Sargent, druggist, and, while talking with him, met Frank Miller, a section foreman on the G. R. & I. Ry., J. E. Rider, who runs the saw mill, and Frank Cassidy, a farmer. They are all for you and said that the whole county was also. This is rather strong, I think, but it reflects a good sentiment.

From here we drove to Pellston where a splendid petition had been secured for you. The only stop we made was at the bank, where we hoped to see Angus G. Grayson, the president, but he was out of town. I talked with Archie Butters, a young man in the bank, and, while he was friendly, he did not commit himself.

Inasmuch as it was getting late and we were due at Petoskey, we hurried on and reached there in time for dinner. Mr. M. A. Barber, druggist and leading republican, had arranged a supper meeting at the Cushman House, at which were present the following: (eight names)

Judge C. J. Pailthorpe was unable to attend, but sent his regrets and assurances, also W. J. Clark and Chalmers Curtis, leading bankers. Ex-Congressman W. S. Mesick, our chairman here, had been called out of the city and Hon. A. L. Deuel, member of the legislature and a member of the constitutional convention started from Harbor Springs, but his auto broke down and he could not get here.

We had a very interesting meeting, every man present making remarks.

I am enclosing herewith an editorial which appeared in a recent issue of the Harbor Springs Republican, edited by Mr. Babcock. The attitude of this paper is most helpful in the county.

Sheriff Miller, who is one of the strongest men in the county, and who had not heretofore taken any position, after listening to the talks made by the different men representing Emmet County, was so impressed by the support given you that he stood up and publicly announced his allegiance to you. This means a great deal

in connection with an element which we could not possibly reach in any other way.

There is a very close fight for congress in this district, the present incumbent, Frank Scott, being opposed by Senator Wood of Manistique, and a peculiar situation exists. Charlevoix County is all Scott and Newberry; Emmet County is all Wood and Newberry. In Schoolcraft County, the home county of Senator Wood, our chairman is very much opposed to the Wood candidacy. From the showing today and at the supper tonight, Senator Wood, who has been in Petoskey all day and is remaining over night, has been so impressed that, immediately upon his return to Schoolcraft County he is determined to make peace with our chairman and his active lieutenants in his home county will from now on be active in our behalf. This has been accomplished without our force taking sides in any way. Senator Wood has seen the light and realizes that, for his own success, he must forget his allegiance to the Osborn candidacy and instruct his lieutenants accordingly. We do not expect that he will take any active part in our campaign, but the attitude he will take from now on will help very much in healing our troubles in Schoolcraft County and elsewhere.

We have had strong opposition in Emmet, but it looks as though we are rapidly overcoming it. I feel very hopeful of the situation. Mr. Darling is one of the live wires here and is responsible for much of the good showing which is being made. It would have done you good to have heard the two farmers present get up and boost for you.

We leave for Otsego and Crawford counties in the morning.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT NO. 55-xx

July 24th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander: OTSEGO COUNTY.

We left for Otsego County at 10:30. We drove into Otsego County from Cheboygan County, and reached

Gaylord at noon. The delegation that met us at Wolverine came down with us. In the party were Orwin Phelps, county clerk, secretary of the republican county committee and our chairman, Hon. Claude E. Shannon, judge of probate and chairman of the republican county committee, Joseph Kowaleski, a leading Pole, all of Gaylord, and John Yuill, a prominent farmer and lumberman, John Fox, Yuill's brother-in-law, a farmer, and Frank Randolph, an active republican worker, all of Vanderbilt.

We stopped at Vanderbilt and called on Doctor David E. Winer, a druggist.

At Gaylord Mr. Phelps had arranged a luncheon meeting and we had a very good attendance. Those present were as follows: (15 names).

After the meeting I made a few calls, visiting Frank J. Shipp, superintendent of the Dayton Last Block Works, and Glenn R. Miner, editor of the Herald and Times.

On the street we met Charles Matusik, a farmer from Spar, Michael Swantek and Joseph Borowiak, well known Poles.

Every man mentioned in this list is for you and Mr. Phelps assures me that you will get the vote in this county. He seems very confident, remarking that if he were the candidate in the county under such circumstances he would consider himself elected.

We left at 2:00 P. M. for Grayling, Crawford County.

Part of the way the roads were fine, but over half the distance they were simply frightful. Unless you have driven in this part of the country you have a little conception of what it is, wading across sand plains between stumps. The party is very cheerful, however, and we take turns driving, so that it is not a hardship for any of us. You certainly have two loyal supporters in Alex Green of Alpena and R. E. Prescott of Lincoln/.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT NO. 55-yy

Telegram:

Grayling, Mich., July 25, 1918.

Hon. Truman H. Newberry,
280 Broadway, New York.

Am having most successful trip through northeastern counties. Have covered Presque Isle, Cheboy-

gan, Emmet, Otsego, Crawford and Roscommon. They are all with us. Office advises Ford republican petitions filed yesterday. Democratic were filed some days ago.

Paul.

DEFENDANT'S EXHIBIT NO. 55-zz

Telegram:

July 26, 1918.

Paul King,
310 Ford Building,
Detroit, Mich.

At midnight Smith telephoned from Grand Rapids asking if I would surely stick to a finish. I replied most emphatically yes. He said he did not want to run. His petitions were all ready and he would decide and wire me Saturday. He wants to see me here next week. Seemed very friendly and I asked for his support.

Truman H. Newberry.

DEFENDANT'S EXHIBIT NO. 55-aaa

July 27th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander: CRAWFORD COUNTY.

We arrived at Grayling at 4:00 p. m. Wednesday, July 24th, and went directly to the Schappenogen's Inn (named after an Indian guide who helped Rasmus Hanson make his money here). The Hansons, by the way, are all with us and they are very influential men in the county. Marius Hanson is looking after the detail work, and T. Hanson is advising him. Mr. T. Hanson is on the War Board and is well known and well liked all over the county.

A fine dinner had been arranged at Mr. Rasmus Hanson's cottage at Lake Margaret, just outside the city (formerly known as Portage Lake). Men were present from every township but two and there were representatives from every industry in Grayling. Those present were as follows: (fifteen names).

Bruce Rutledge, Chairman of our committee in Ros-

common, drove over to Grayling and was also present at the dinner.

Joseph J. Royce of South Branch Township, and Ralph Hanna of Beaver Creek Township, also were invited but were unable to attend.

A contingent of selectives were about to leave town and a patriotic meeting was arranged for on the court house square, so we had to hurry dinner to get to the exercises. The outside speaker failed and I was drafted to take his place. I had a fine audience and made a patriotic talk.

During the evening I met Michael Brenner, the village marshall, and Reuben Babbitt, the game warden.

Every one of these men is for you and we will get the vote in Crawford. On account of the mills and plants here there is a substantial vote.

We left for Montmorency County Thursday morning at seven o'clock.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT NO. 55-bbb

July 27th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.

My dear Commander: ROSCOMMON COUNTY.

We did not get into Roscommon County, but Mr. Bruce Rutledge, proprietor of a general store at Roscommon and our manager there, came up to the meeting at Grayling and made a report on conditions there.

We have been depending on Mr. Rutledge, J. Burt Kiely, abstractor and secretary of the county committee, and D. E. Matheson, editor of the Roscommon Herald. Kiely has, for some reason, ceased to be active but Rutledge did not know of any reason for this or of any opposition that Kiely was giving up. He is going to look into the matter. Matheson is helping splendidly.

Mr. Bruce Rutledge is a brother of Homer Rutledge, state fire marshall and chairman of the republican county committee, and is doing all he can all over the state. He is an old friend of mine dating back to twenty years ago when we were both employed in the State Senate.

Mr. Rutledge advises that all of the county officers are for us and they are all helping. Mr. A. H. Johnson, the sheriff, circulated the petitions himself in Roscommon and Lake townships and in the former, out of a total republican vote of 40, secured 31 signatures, and the latter, a total of 71, secured 67 signatures. Hon. L. W. Finlay of Backus Township is looking after our interests there; O. D. Knapp, the county treasurer, is also circulating a petition; Hiram Smith, prosecuting attorney, is active.

Mr. Rutledge advises that we will carry the county. With the proprietor of the general store, chairman and secretary of the county committee, the editor, and all of the county officers for us, Roscommon looks safe. The vote is, of course, small (normally about 500), but their votes are as good as anyone's and count just as much. We are going after every county, as you know, and not slighting any.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT NO. 55-ccc.

July 29th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.
My dear Commander:

I wish to acknowledge receipt of your letter of July 22nd relative to Doctor Dickie, your letter of July 23rd containing an excerpt from Mr. Sales' letter of July 18th, and that of July 23th, concerning your conference with Mr. Hays, etc.

In reply I will say that I am very sorry about the Dickie letter. As I wrote you, I had no intimation whatever about Doctor Dickie until the letter had gone out and it was too late to recall it. So far, we have had no criticism concerning it and if any are made I will do my best to absolve you from any blame in the matter. I presume that it is inevitable that in a campaign of this size some mistakes will be made. We are doing our level best, however, to avoid them, and, so far as we know, they have been few.

I might say, with reference to Mr. Sales' comment on Mr. Wallace, that I have been in correspondence with Mr. Wallace. He writes me very frankly that he thinks Os-

born has no chance of election and that he hopes the ex-Governor will get out of the race. Of course it is too late now for him to do so formally.

I note what you tell me about the Free Press and am hoping that we will eventually have at least one Detroit newspaper with us.

Enclosed herewith I hand you copy of a letter of introduction I have this day written for a Mr. Elmer E. Hand at the request of a mutual friend. Mr. Hand will no doubt call on you at an early date.

Sincerely yours,

Paul

DEFENDANT'S EXHIBIT NO .55-III

July 29, 1918.

Dear Paul:

I enclose herewith a copy of a letter just received from C. D. Joslyn which strikes me as important and should have your personal attention, also copy of my reply.

By this time you will have received a letter I wrote prior to our telephone talk yesterday, which, of course, cleared up all my minor grievances about not hearing from anyone in Detroit concerning the filing of petitions, etc., at the primaries.

My residence at the Biltmore permits me to see many Detroit people, with the exception of Sam Douglas, an intimate friend but a hard-fisted Democratic. Almost all of them are wearing Newberry buttons and seem very enthusiastic.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
Detroit, Mich.

DEFENDANT'S EXHIBIT NO. 55-fff.

DAYLETTER

July 29, 1918.

Paul H. King, 310 Ford Building, Detroit, Michigan. Had satisfactory luncheon with Durant. Very desirable that you have personal interview. He expects to reach Detroit on third or fifth August. Suggest you wire him care General Motors here making a definite appointment. He is keenly interested and has valuable suggestions.

Truman H. Newberry.

DEFENDANT'S EXHIBIT NO. 55-ggg

Port Huron,
Jul 30 1918.

Hon. Truman H. Newberry, Biltmore Hotel New York N Y

Telegram re Durant reed. Will arrange to see him. Just had fine meeting Mt. Clemens.

Paul King

DEFENDANT'S EXHIBIT NO. 55-hhh.

Detroit, Mich.,
Jul 30 A. 12 17.

Lieut. Commander Truman H. Newberry 280 Broadway New York N.Y.

Please send telegram to Polish citizens committee Wenzel L. Zukerski Secretary eighteen Monroe Avenue Grand Rapids advising that you stand for a free and united Poland. Make it as strong as you can and advise that letter follows in this. You can elaborate; matter is very important.

Paul H. King

DEFENDANT'S EXHIBIT NO. 55-jjj

July 31st, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908,
New York City.
My dear Commander:

I am enclosing herewith report by Mr. Floyd on the railroad vote. He is doing good work on this.

A personal letter is being written to all the officials of the railroad companies in the state and to all station agents of the Pere Marquette.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT NO. 55-kkk

July 26, 1918.

Railroad Vote

Mr. Paul H. King,
Detroit, Mich.
Dear Paul:—

Since writing you the report on the railroad vote, there has been very much activity and I am writing this letter to bring the matter down to date.

Up to the present time you have received 178 petitions including approximately 7200 names from railroad men. The petitions have been handled by 63 men who are also interested in saying everything they can for Commander Newberry. These men are all in the lower peninsula. They represent practically all of the different trades, or vocations on the roads. We have engineers, firemen, conductors, yardmasters, brakemen, baggagemen, office employes, switchmen, roadmasters and others.

The State President of the Brotherhood of Engineers and Firemen is devoting a month of his time to visiting the various locals and interesting the boys in our cause.

Probably the most important service is being rendered by Mr. Geo. R. Murray, Muskegon, President of the Railway Men's Relief Association. He has personally visited all the division points in the lower peninsula. He has arranged with all of his Departments to circulate petitions and boost for the Commander. Beginning with Monday, all of his time will be devoted to campaigning, with joint meetings of the various union men at all of the Division Points in the state, which will be addressed by Mr. Murray himself. His program includes Traverse City, Mackinaw City, Cheboygan, East Jordan, Manistee, Ludington, Cadillac, Reed City, Muskegon, Grand Rapids, Holland, Benton Harbor, Kalamazoo, Jackson, Battle Creek, Flint, Durand, Owosso, Ionia, Saginaw, Bay City, Port Huron and winding up with several meetings at Detroit.

The official magazine of the Railway Men's Relief Association goes out to 10,000 regular subscribers. In this month's issue, there is a very fine story with regard to Commander Newberry. We are sending out 5,000 extra copies of the magazine (not including the advertising matter) to the Y. M. C. A. Lodge rooms, trains, round houses, shops and other places where railroad men congregate. The next issue will contain a letter of endorsement which will be widely circulated.

The Michigan Publicity Bureau, consisting of ten men representing organized labor meets August 4th. This Board will consider the advisability of endorsing a candidate. Instead of receiving endorsements, we hope to have no action taken as we find there is a suspicion in the minds of a good many men as to what these leaders do in connection with politics.

Another complete trip will be made by Mr. A. K. Moore, visiting each one of these men who has circulated petitions and keep the enthusiasm up until the final day.

Yours very truly,

Chas. A. Floyd.

DEFENDANT'S EXHIBIT NO. 55-mmm

July 27, 1918.

Railroad Men

Mr. Paul H. King,
310 Ford Building,
Detroit, Mich.

Dear Paul:

Will you please attach this letter to the one I wrote you yesterday with regard to work with the railroad men.

I am inclosing a couple of letters I think the Commander would like to see. I have a number of similar letters coming in here all of the time and they indicate the feeling and interest that has been aroused.

Yours very truly,

Chas. A. Floyd.

DEFENDANT'S EXHIBIT NO. 55-ooo

RAILWAYMEN'S RELIEF ASSOCIATION
of America
Supreme Division
Headquarters at Muskegon, Michigan.

Muskegon, Michigan, July 26th, 1918.

Mr. Chas. Floyd,
Grand Rapids, Michigan.

Dear Mr. Floyd:

Enclosed you will please find petition from Grand Ledge, and also a letter attached which is self explanatory.

I am writing Mr. Gould urging him to keep the work on the upward march and I know that you will also write him. He is a particular friend of mine and a real influential man.

In reference to the publicity committee of the Federation of Labor, Mr. Young, President of the Commit-

tee called on me yesterday, asking me for my support in his candidacy for representative from this District, which I promised to give him, expecting a fair deal for Mr. Newberry at their meeting in Lansing on August 4th. He has promised me that all the recommendations that he will make at that meeting is to turn the questionnaires over to the several local Unions just as they have been answered by the prospective candidates, with no recommendation, thus leaving it to the individual membership to decide their choice as to the most logical man for the office.

I am always a little fearful of the President of any organization taking a decided stand against any particular issue, fearing, perhaps, that he might overpower the majority, and I have worried a great deal in this particular case. But my mind is at ease, believing that this will work out all right, although I am going to keep my mind on this committee until this particular meeting is over, knowing that a good organizer will not leave any gaps open for the wrong fellow to walk through without any obstruction.

I went to Grand Haven this morning to visit the railroad men and while I was there I called on several of the business men and I find the sentiment strong in favor of Mr. Newberry in Grand Haven.

I want to jar your memory that we are waiting the 'follow up' article for our Official Organ, the Relief Signal, August number. This issue is going to be a Muskegon booster and I would be pleased to have your 'copy' here not later than the first of next week for our printer is waiting for it as he has all of our other matter in the hands of the linotype people now. So if there is any hold-up on the job, it will be on account of not getting this 'copy' from you promptly.

I will be in Grand Rapids Monday and will leave over the Grand Trunk at 2:40 for Durand. If you are going to be in the office Monday I'll run up and have the pleasure of exchanging ideas with you.

Keep everlastingly after them, for I would dislike very much to be in a race and not come out at least a neck ahead of the other fellow with a couple of front feet thrown in for good measure.

Sincerely yours,

G. R. Murray.

DEFENDANTS' EXHIBIT NO. 55-ppp

Enroute-Owosso, Mich.,

July 31, 1918.

My dear Commander:

I am enclosing for your information Floyd's report on Western Michigan, which I think will be of interest to you.

Since Senator Smith withdrew we have been making an active effort to line up as many of his friends as possible, with very good success. The Osborn people have been busy also. There is no doubt that Senator Smith would have cut into us somewhat, although we had tied up a large number of his friends before he got back into the game.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 55-qqq

July 26, 1918.

Mr. Paul H. King,
Detroit, Michigan.
Dear Paul:

During the past week I have visited our organization people in several counties and wish to report as follows:

Kent County.

General organization complete. This includes activities in rural districts, towns, villages, the twelve wards of Grand Rapids, in the various shops and with the different organizations including labor, fraternal and such associations as the Polish National Union, etc. George Welsh and the balance of the Kent County committee are working most actively holding evening meetings with anywhere from 25 to 75 men present, with speakers from outside towns such as Judge Thompson of Allegan, William Bransirom of Fremont, William Connelley of Grand Haven, Capt. Tufts of Ludington and whoever happens to be in town. These meetings are surely producing results and making sentiment all the time.

Barry County.

I talked with Archie Anderson and had a call from Dr. Murray. Our Secretary Mr. Norris is making a com-

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plete trip visiting several spots and will continue this until Primary Day.

Ionia County.

The organization is so good in this county that Senator Smith was unable to make any kind of a break or secure petitions except in one spot, viz., Lyons where our organization man had been sick and had not completed his work. Senator Smith remarked on the streets of Ionia that he was very much surprised to know that the Newberry organization had been so active and so thorough with its work.

Montcalm County.

I talked with Mr. Bowman and will have a meeting here Saturday morning with Mr. LaDu. These two gentlemen together with Mr. Northrup, Chairman and Mr. Haskins are looking after the Western part of the County with Judge Miel actively interesting his friends in the eastern section. The Osborn people have been unable to find anyone to manage their campaign in this county up to the present time.

Newaygo County.

I had a visit with Mr. Branstrom and Mr. Hilton. The former will have no opposition as Prosecutor and will be able to spend most of his time campaigning. The Newaygo County Republican Club is actively engaged in promoting our campaign and Mr. Hilton who is an old time Supervisor and very well known is now starting out with a Ford to make every place in the county.

Ottawa County.

I talked with Mr. Connelley, Tom Robinson, Ben Mulder and Charlie McBride. The work is going along very satisfactorily. The boys in Zeeland, Holland, Coopersville, Spring Lake and Grand Haven are all lined up in great shape. They only ask how to keep things going for the balance of the campaign as they seem to have the rank and file very much interested.

Allegan County

Judge Thompson reports fine results all the way through. There was a weak spot in the southwestern part of the county which has been fortified.

Muskegon County.

I talked with Mr. Brock and also had a long talk with Will Smith. Their organization is complete and they are busy as can be.

Mason County.

Mr. McLean was in here and reports that K. Matthews, A. L. Pratt and their friends seem to have things lined up very well.

Wexford County.

I have had a long talk with Mr. Yearnd. So far as organization is concerned, this County is all right. Quite a few of the business men knowing Senator Smith so well seem inclined toward him. Consequently, Mr. Yearnd's endeavors are with the rank and file. He reports everything good over in Missaukee County where he spends quite a little time as he is Prosecutor for them.

Leelanau County.

I saw Judge Brown and Ralph Hughes. They tell me everything is fine up there.

Grand Traverse County.

I spent quite a little time in this county with Elmer White, Palmer Gilbert, visiting a good many of the people in Traverse City. I also had a long talk with J. H. Monroe. This county is being looked after all right.

Antrim County.

I visited Bellaire and consulted with James Deevey, Sheriff William Kettle, C. L. Bailey, the county officers, members of the draft board. The sheriff and Mr. Deevey are starting out the first of the week for a complete tour of the county although they have already lined up men in every voting precinct. This county looks good.

Charlevoix County.

I was fortunate in visiting Charlevoix the other day when there were about 75 automobile loads from East Jordan and Boyne City attending a farewell reception for boys going to camp. We arranged the final details for the organization in this county with Judge Harris,

Chairman and Dwight Fitch of East Jordan as Secretar assisted by Lisle Shanahan of Charlevoix. I had o casion to meet Father Jewell from Beaver Island. H wanted to know all about candidates and after hearin the story said he would interest all of his flock at S James and through the Island. I visited with the Chi of Police, county officers, Mr. Lewis and Sheriff Novac who are opposing each other for County Clerk, also an other Mr. Lewis and Mr. A. C. Fitch who are opposin each other for Prosecutor and they all promised thei full support to the campaign.

Emmett County.

I met you in this county and you know how well th campaign is being conducted there.

In addition to the above and in general, I have en couraged all of the organizations to make as wide a dis tribution of literature as possible during the remainin days of the campaign. I have arranged with them als to provide for representation at each voting precinct th entire day of the Primaries so that through this whol district you can be sure that there will be at least one man and in some cases two or three giving their entire time in saying the final word.

I have also sent out two automobile loads of literature one in charge of George Rogers and the other in charg of Harry Veger visiting every county on this side of th state, stopping at all cross roads, stores, villages and cities passing out cards and circulars.

Yours very truly,

Chas. A. Floyd.

DEFENDANTS' EXHIBIT NO. 55-sss.

(Telegram from Truman H. Newberry to Paul H. King, dated July 31, 1918.)

"Just had important and illuminating luncheon with Colonel Harvey. Expect helpful developments. Am writing."

DEFENDANTS' EXHIBIT NO. 55-ttt.

July 31, 1918.

My dear Paul:

Your wire received late last night. This morning I had luncheon by appointment with Colonel Harvey, who is thoroughly well posted on the sinister Pro-German in- fluences which Ford has been and is connected with, and

which lead to high places. Colonel Harvey knows an infinite lot of interesting things that cannot be published but only hinted at, and Ford he considers not only as a national but an international menace.

This afternoon the principal correspondent of the Chicago Tribune is here and they have but one desire, which is ours, to beat Ford. At present this man believes that either Osborn or I could beat him alone, but I insisted to Colonel Harvey that either the Colonel, the Chicago Tribune, Hayes, Senator Crane or Senator New should send some one or more to Detroit to see you, where every fact in our possession would be given and they could then decide whether Osborn or I should make the run to beat Ford. I told him I was so satisfied that I did not make any promise or imply any promise to be guided by the judgment of any such man or men in the matter, but I expressed my great anxiety to have them immediately get this information, so that all the forces for good government working toward the same end might be concentrated on one candidate. I said the elimination of Osborn I considered hopeless, but I did not want the Chicago Tribune to be laboring under any lack of information, and that every source of information and our entire organization and plan of campaign were at their disposal. If they select anybody today I will wire you, and in the meantime I am getting this off by special delivery on the five o'clock train.

I am enclosing an advance copy, which Colonel Harvey gave me, of the next War Weekly. Please read it more than once and realize where this treason leads. Ex-Justice Hughes, I am told on the most reliable authority, has what is known as the "goods" on your friend Henry as the champion profiteer of this war, and Mr. Hughes realizes the necessity of immediate publication. I do not know what will be done but the strongest forces in our Government are trying to keep these facts quiet in order to fool the public, but I do not believe the facts can be kept quiet, and my only anxiety is to get them before the people as soon as possible.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

DEFENDANTS' EXHIBIT NO. 56.

Enroute—Lapeer, Mich.,

Aug. 2nd., 1918.

My dear Commander:

MONTMORENCY COUNTY

We left Grayling by auto at 7:30 a. m., Thursday, July 25th, for Atlanta, Montmorency County, via Lovells. In the party were Messrs. Green, of Alpena, and Prescott, of Lincoln.

Out on the sand plains we lost our way on account of there being no guide boards of any kind, and, instead of striking Lovells, came out at Sigsbee, sixteen miles south. We hurried to make up the lost time and were further delayed by an accident to the car. I was driving. If you will remember how crooked these roads are and how many stumps there are you would not be surprised at what happened. The car kept climbing up out of the sand road and it was with difficulty that it could be kept where it belonged. It jumped the track with me, although we were not going fast on account of the heavy sand, and before I could stop it we had run into and onto a Norway pine stump about two feet from the track. We had some difficulty in getting it off, and then found we had bent our axle, dislocated one of the springs and impaired the carburetor so that the engine raced every time we started it. Green and Prescott, being of some mechanical ability, stayed with the car and Mr. Sibley and I started to walk to Johannesburg, five miles away, for help. The walking certainly was not good; sand a foot deep and briars and brush along both sides of the roadway. It was just at noon and hotter than sin. We had gone about two miles when we heard the chug-chug of our car, which the boys had fixed up so that it would run on a couple of cylinders, and it certainly did sound good.

We did not try to stop at Johannesburg, but limped on into Atlanta, stopping at the farm of Hon. Thomas E. Double, former member of the Legislature, present supervisor of Vienna Township, and a personal friend. He is for you and says that everyone else around here is also.

I shall not soon forget that day out on the sand plains with a broken down car, fifty miles from Alpena, where

we had a meeting scheduled at night, and with no help within miles.

I am only recounting the experience as a sidelight on the campaign, which may interest you when you are not busy.

We had lunch at Atlanta, after which I went over to the court house to call on the county officers. We were successful only in seeing the clerk, George McClenathen, who is for you.

Foster Cameron, deputy county clerk, one of the deputy sheriffs, and a merchant in Atlanta, is our chairman. We met him on the road as we were coming into town. He is certainly a good man and is working hard for you.

We also called on Grove Rouse, an old time friend of mine, who is republican postmaster,—quite an oddity at this time. Mr. Rouse introduced me to a number of men and is doing all that he can to help. Among those whom I met were Elmer Smith, prosecuting attorney, whom we saw on the street, and Doctor George Cornell, druggist and the leading physician.

We drove on the Hillman, the other town in the county, arriving at about five o'clock. On account of the fact that we were due in Alpena for supper, we stopped only long enough to pick up J. W. Knapp, a prominent merchant there, and the secretary of our committee. Mr. Knapp assured me that everything is solid in Hillman and that the county generally is for you. The county officers are all Newberry men and there is practically no other sentiment. Of course the vote of the county is small, but it all helps.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT 56-a.

Enroute, Lapeer, Mich.,

August 3rd, 1918.

My dear Commander:

ALPENA COUNTY

We arrived in Alpena at about 6:30 p. m., Thursday July 25th, an hour late on account of our delays in Montmorency County, and found that we had lost some

of our crowd for the supper meeting. Most of the boys had stayed, however, and we certainly had a fine meeting. Those present were as follows:

(Here follows a list of 24 names.)

Those invited, but who, for various reasons, were unable to attend, were as follows:

(Here follows a list of 15 names.)

Mr. Hinks was toastmaster and presided very ably. Speeches were made by Messrs. Gustin Dafoe, Prescott, Judge Burt, Mr. Richards, myself, and others, and a splendid feeling was indicated. Mr. Sibben was even drafted for a speech and acquitted himself very creditably.

After the meeting I was temporarily laid up for repairs on account of sick headache, but was all right the next morning.

I met Congressman Frank Scott at the hotel, who had come home to look after his political fences. I wrote you fully about this situation in my report on Emmet.

Alpena County certainly looks good. Practically all of the business men, all of the county officers, and all the republican leaders are for you and there is a good feeling among the farmers. We are assured that we will carry the county.

I left by train at 7:20 for Iosco County.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-b

WESTERN UNION TELEGRAM

Bay City Mich 920 A Aug. 2. 1918.

Hon. Truman H. Newberry,
280 Broadway, New York NY.

Letter and proof received. This will be big help. Have visited (Telegram torn and name illegible) Macomc, Shiawassee, Lapeer and Tuscola this week. They look fine. Oakland tomorrow. Wayne campaign going satisfactorily.

Paul.

DEFENDANTS' EXHIBIT NO. 56-c

August 2, 1918.

Dear Paul:

I am enclosing copy of a letter from George A. Marston, and my reply, for your information, and want to call your attention to the satisfactory work of "Klago".

I am also enclosing copy of correspondence with Ben Warren, concerning the situation at Grand Rapids and the case of Cal Holt, who seems to be a representative of the Cleveland Cliffs Company and working for Henry Ford. I think Mr. Mather should know about this and hope you will drop him a line, as I cannot.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
Detroit, Mich.

DEFENDANTS' EXHIBIT NO. 56-d

WESTERN UNION TELEGRAM

Detroit, Mich., Aug. 5, 1918.

Lieut. Commander Truman H. Newberry,
280 Broadway, New York NY

Please send telegram today to Arthur E. Wood President 16 Gratiot Avenue Detroit along line of telegram sent to North End Republican Club some weeks ago. Occasion is annual outing Detroit Republican Club at Putinbay tomorrow as you know this is large affair and we will be represented there by able speaker.

Paul H. King.

DEFENDANTS' EXHIBIT NO. 53-e

August 5, 1918.

My dear Paul:

Mr. Utley has sent me a copy of his letter to you of August 1st, containing a suggestion that the foremen and heads of departments of various factories be invited to join the Business Mens Club. This strikes me as a very practical and desirable action, and I will be glad to know

what steps you have taken or whether you have found for any reason impossible.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

P. S. I am attaching copy of a telegram which I ha sent to the North End Republican Club.

DEFENDANTS' EXHIBIT NO. 56-f

August 5th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908
New York City.

IOSCO COUNTY

My dear Commander:

We left Alpena for East Tawas Friday morning Ju 26th at 7:22. Upon arrival we were met by James Dillon, druggist, and one of the leading Republicans the County. At the depot I also met Dillon's son Wi liam, and Mr. A. Barkman, a banker, who was at t train to say good-bye to his son who was leaving for t service.

Mr. Dillon took me about town and I met a good ma people.

I first went over to the offices of the Detroit and Mac inac Railway and met Charles A. Pinkerton, car a countant and an active Republican. He is a member our committee and is a good man. I also met Harry Anker, who is employed in the office, and who is Sec tary of the Board of Commerce, John McCray, Assista to the Division Superintendent, Frank Pinkerton, anoth railroad employee, and F. F. Randolph, a dispatche These men all seemed friendly but did not commit the selves. Mr. C. W. Luce, Superintendent, was away, b I understand that he is friendly.

Later in the day I met Al Swayles and R. H. Bu worth, minor officers of the company, who did not he tate to say that they are for you.

On the street I talked with Fred Smith, a farme Charles Currie, liveryman, Lyman McAuliff, and Chark Bigelow, railroad engineers. S. A. Wood and Josep

Mitchell, also railroad men, Doctor B. J. Mose and W. B. Murray, a jeweler, who are all right. I called on Fred Richards and W. C. Richards, who conduct a hardware store, Doctor F. C. Thompson, physician, Arthur Evans, proprietor of a furniture store, Hon. W. A. Grant, mayor and assistant cashier of the bank, C. R. Jackson, editor, J. A. Turner, baker, H. N. Butler, proprietor of a department store, Emil Kunze, grocer and E. J. Kelly, druggist, who are all for you.

In the office of Doctor W. A. Weed, physician (Democrat) I met B. F. Oakes, a G. A. R. man who is for you. James Larkin, real estate man, and John Applin, grocer, and partner of Kunze, were out.

We then drove over to Tawas City and made some calls on the county officers. We saw Hon. David Davidson, Judge of Probate, Joseph Demmick, County Treasurer, F. E. Dease, county clerk, and Hon. E. V. Follett, of Hale, former member of the legislature. Mr. Follett was a radical in the legislature and against me on the rate bill, but is with us this time. Judge Davidson is said to be the strongest man in the county with the farmers. Demmick is very popular and Dease is a substantial sort of chap. All these are on our committee.

On the way over I met Arthur Jackson, son of the editor, who is assistant master mechanic at the D. & M. Ry. shops. He and I were pages together in the Senate twenty years ago and he is going to do everything he can to help.

At the Court House we ran into E. V. Esman and Stacy B. Yauger, of Hale. Mr. Esman said that he was for Ford. I tried to argue him out of it but unsuccessfully. They told me afterward that he is a crank and not to worry about him. His son-in-law is very loyal to the old man and probably will also be for Ford.

We then had a luncheon meeting at the hotel in East Tawas at which were present the following:

(Here follow 13 names.)

Mr. Dillon presided, and talks were made by all present. The feeling was fine and the second meeting arranged for will be held August 5th.

After the luncheon I met Doctor A. Staley, a physician, who is for you; R. D. Brown, Post Master at Hale, Fred A. Pollard, a railroad man, Eugene Provost, a barber,

and H. C. Hilton, of the United States Forest Service who did not commit themselves.

Emil Sherett of Emery Junction I saw as I was leaving and he was O. K. F. F. French, a lawyer, was away, but is for you.

We left for Standish at 3:30 and, on the way, through East Tawas, stopped at the store of Hon. G. A. Prescott ex-state Senator and present food administrator of Michigan. Mr. Prescott happened to be at home and I had a very pleasant talk. He is for you, as are also H. E. Downer and F. F. Taylor, who are in the store with him.

Iosco County looks very good, indeed. I could not find any opposition sentiment whatever. Mr. Dillon has a splendid committee and we may expect good results.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-g

August 5th, 1918.

My dear Commander:

ARENAC COUNTY

We arrived at Standish on Friday, July 26th, a little behind schedule. Homer E. Buck, of Bay City, R. E. Prescott of Lincoln and Judge Burt of Harrisville were with us in Mr. Prescott's Ford.

Hon. John W. Dunn, Judge of Probate, and George H. Glasure, Commissioner of Schools, chairman and secretary, respectively of our committee, had arranged a supper meeting in the Masonic Hall. The following named men were present:

(Here follows 51 names)

The following were invited but for various reasons were unable to attend:

(Here follows list of 15 names.)

Talks were made by Mr. Hayes, Mr. Prescott, Mr. Myers and myself. Mr. Hayes' remarks were very fine although he did not wholly commit himself to your candidacy. I talked with him after the meeting and the next morning, and he finally gave us his assurance of support.

In the beginning Judge Dunn said he could carry this county against any one except Mr. Ford. He has since told me that the manner in which Ford's candidacy came

about, and the time which has been given him to combat it will make it possible for our organization still to win out and they are very confident of doing so.

We left the next morning in Mr. Prescott's Ford for Gladwin.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-b

August 5th, 1918.

My dear Commander:

ALCONA COUNTY.

We did not get into Alcona County on our northern trip as we had arranged to meet with the leaders from that county; in fact, we had with us during the last two days, the chairman of our Alcona County Committee, Hon. George W. Burt, of Harrisville, Probate Judge, and R. E. Prescott of Lincoln, editor of the Alcona County Herald, was with us during the whole trip, so that I was very familiar with the situation there.

Mr. Osborn had a very good start in the county and all of the county officers, except Judge Burt, were for him. My information is that now they have rather given up hopes that Osborn can win and their opposition will not be very effective. Mr. Prescott has lined up all the supervisors in the county except in the City of Harrisville, and has a very good county committee, which is made up as follows:

(Here follows a list of 16 names.)

Judge Burt and Mr. Prescott feel very confident that they can carry the county. They are working hard and I have great faith in their ability to make good. The Judge is past middle life and is conservative. Prescott is a young fellow who is getting well under way in the newspaper business. The combination is a very good one, indeed, I feel, and we will have very good returns from the county I am sure.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 58-1

August 6th, 1918.

My dear Commander:

GLADWIN COUNTY.

We arrived in Gladwin from Standish about noon, Saturday, July 27th. On the way we stopped at the little town of Bentley in Northern Bay County. I will speak of this in my report on that county.

After lunch we called on Hon. Eugene Foster, editor of the Record, former State Senator, Member of the Constitutional Convention, and Chairman of the Republican County Committee. I have known him for a good many years and was glad to find that he was for you. He took me about town and helped me to meet a number of people.

We called on Hon. Isaac Foster, his brother, who is Judge of Probate. The judge was at first somewhat undecided, but has since made up his mind to be for you.

Doctor J. W. Leininger, the leading physician, I found to be a warm Newberry man, our literature being very prominently displayed in his office. Oscar Rogers, an employe of the First National Bank, and E. A. Coon, vice-president, are both for you, as are also Charles G. Goodrum, the cashier, W. H. Gilliland, drain commissioner and R. E. Stuart. Among those who did not commit themselves were John Graham, restaurant man, Hon. A. Woodward, mayor, and Merle A. Schell, candidate for county treasurer.

I also called on B. W. Hunter, in the shoe business, Delwin Graham, Robert and James Croskery, hardware dealers, Samuel Goldberg, clothier, F. L. Prindle, attorney, Glenn B. Smith, retired, Guy E. Smith, a leading attorney, and M. H. Wright, a grocer. All of these men, except the Croskery brothers and Wright, are for you. The former talked as though they might be for Ford and the latter for Osborn. Guy Smith is secretary of the county committee and would have been for Senator Smith, but is now strong for you.

We could hardly break away from town, as Senator Foster kept insisting that I meet more people, but we left at about three o'clock for Beaverton, in the southern end of the county. We arrived at Beaverton at 3:40,

and while I made a couple of calls, Homer E. Buck, of Bay City, who was with us, tackled a group of farmers on the street (it being Saturday afternoon and a number of them being in town). He had good luck with them and they took the cards and buttons very readily.

Although I knew that Hon. Henry Croll, member of the House, was against us I called on him, as he is personally friendly. He told me that he had promised Osborn some time ago that he would vote for him, and would, of course, do so, although he would not do any work for him. He took me over to meet Maurice E. Musser, proprietor of a department store, who was frankly for Osborn.

We have a warm supporter in Roy B. McKibbon, county road commissioner, who can help us a great deal. I was unable to see him, however.

This county had not been organized at the time of my trip and my visit was of a preliminary nature. I have since sent a field man into the county (ex-Senator Corliss), and it is now organized, with Doctor Leininger as chairman and Judge Foster as secretary.

Mr. Corliss induced Rep. Croll to send a letter to Merlin Wiley, Osborn's manager, asking to be released from his promise and reports that a canvass of the business men of Beaverton does not indicate that it is so much of an Osborn community as I had at first thought, although the ex-Governor made many friends here through his Commencement Day address in June.

We left for Midland, enroute to Bay City, at 4:15, arriving at Midland at six o'clock. I will speak of my visit here in my report on that county.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-j

August 6th, 1918.

MIDLAND COUNTY.

My dear Commander:

We arrived in Midland at six o'clock, Saturday, July 27th, enroute from Beaverton, Gladwin County, to Bay City. We had but two hours here, so that I did not attempt to make any great number of calls.

I made it a point to see Congressman G. A. Currie

who was home looking after his own campaign, and who assured me of his support. He has opposition in Hon. George A. Loud of Bay City, former Congressman, but does not believe that it will be serious. I heard considerable about this in my travels through the district and observed that Mr. Loud's friends are not very keen about his candidacy, believing that it is a mistake at this time.

In this county we have purposely held off on the recommendation of Labor Commissioner Fletcher, who is close to the situation here. We have a number of active friends who have written in pledging their support. Among these are Leslie D. Modill, chairman of the Republican County Committee, Hon. Duncan Wayne, ex-member of the legislature, Hon. Floyd L. Post,, member of the Constitutional Convention and for a long time Judge of Probate, and Hon. Ray Hart, Circuit Judge. I am also advised that Will E. Reardon, former executive clerk to the Governor, is with us and that H. H. Dow, of the Dow Chemical Company is very earnest in your support.

We were threatened with some opposition here through Hon. Jos. E. Bayliss, former member of the legislature from Chippewa County, who has taken up his residence in Midland, and through E. J. Jenkins, formerly of Big Rapids in Mecosta County, who are strong Osborn men. They are both associated with Mr. Dow, who has asked them to do nothing more for Osborn and I understand that they have complied with his request.

After my talk with Congressman Currie I called on Judge Hart and he will be glad to advise about the organization in the county. Congressman Currie is helping us particularly because of his appreciation of Dick Fletcher's support in Bay and because of his personal friendship for me. We were together in the legislature when he was speaker and I subsequently appointed him him Attorney for the Pere Marquette when I was receiver. He is in a position to be of great help to us and I am glad that he is with us.

I shall organize the county just before the primary and have a man ready to go into the county within the next week.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-K

August 6, 1918.

My dear Commander:

I am sending you the enclosed circular letter and leaflet, that you may "see your Finnish".

I defy you to read them, but they will do an immense amount of good in the Upper Peninsula.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-L

August 6, 1918.

My dear Commander:

OGEMAW COUNTY.

It was impossible for me on account of the shortness of time, to get into Ogemaw County, so that I arranged with Mr. H. W. Shulty, proprietor of a garage at West Branch, and our manager there, to come over to Standish to meet me and go over the situation with me. Although he is the Ford agent, he does not hesitate to take charge for us.

He was accompanied by W. A. Crandall, editor of the Herald-Times and Ogemaw Republican.

After our meeting was over at Standish we went to the hotel and discussed the situation in Ogemaw County.

Among your supporters in West Branch are A. C. Neilson, grocer, Robert C. McKay, one of the proprietors of the Ogemaw County Bank, James E. Horton, a G. A. R. man, W. A. Crandall, the editor, C. E. Kenyon, sheriff and present candidate for county clerk, Hon. George Bennett, Judge of Probate, Benjamin Bennett, a retired miller.

Against us are Hon. John T. Alt, mayor and an old friend of Senator Smith's (he may possibly be with us now) Hon. W. T. Yeo, who is for Osborn, and J. C. Osborn, retired Detroit Police Inspector, who is for Ford.

The sentiment in West Branch is good, Mr. Shulty says, as you got one hundred signatures on your petition out of a possible two hundred votes. The following men in the county are also with us: (30 names by townships)

Mr. Shulty says there is some sentiment there in Mr.

Osborn's favor and some for Ford, but he thinks we will carry the county.

Sincerely yours, Paul.

DEFENDANTS' EXHIBIT NO. 56-N.

August 6th, 1918.

My dear Commander:

BAY COUNTY.

We arrived at Bay City by auto from Midland at 9:00 p. m. Saturday, July 27th. The party was composed of Judge Burt of Harrisville, R. E. Prescott, of Lincoln, and Homer E. Buck, of Bay City. Mr. Buck, who is chairman of our Bay County committee, had arranged for a luncheon meeting at the Colonial Club and we had a very profitable time. Those present were as follows: (Then there are enumerated 19).

Talks were made by Messrs. McGinnis, McCabe, Willard E. King, Judge Burt, and Mr. Prescott, and myself, of course.

Bay County is thoroughly organized and the sentiment among the leaders is practically unanimous. Our opposition is waning. There was a time when Mayor Robert W. Mundy and Register of Deeds Will Lambert were against us, but they have become discouraged, I am advised, and they are now no longer active. Homer Buck is an enthusiast and behind him every minute is Labor Commissioner Richard H. Fletcher, who is one of the most active and influential republicans in the state. There is every indication that we will carry the county by a good vote.

While passing through the northern part of the county in the morning, on our way to Gladwin, we stopped at the little town of Bentley to get some gasoline, and I found Peter Edmonds, our committeeman here, who took me around the town. We met J. A. Pelton, hardware dealer, N. E. Lefler, postmaster, Fred Leonard, cashier of the bank, G. H. Morden, proprietor of the general store, and Anton Folkman, farmer, who are all for you.

I did not see Andrew Fauls, township clerk, who is a strong man here, and do not know how he stands.

Sincerely yours.

Paul.

DEFENDANTS' EXHIBIT NO. 56-O.

August 6th, 1918.

My dear Commander:

During the week of July 20th I covered fifteen counties, personally visiting twelve, as follows: Alpena, Presque Isle, Cheboygan, Emmet, Otsego, Crawford, Montmorency, Iosco, Arenac, Gladwin, Midland and Bay.

In those cases, with one exception, where I did not make a personal visit I saw representatives of our organizations who met me at convenient points. These were Roscommon, Ogemaw and Alcona. I failed to get together with the men from Oscoda County and will arrange to see them later.

This part of the state is in very good shape. Conditions in Alpena, Presque Isle, Otsego, Crawford, Roscommon, Montmorency, Iosco, Arenac and Bay are most gratifying. We have practically no opposition, so far as I could discover. We have a fight in Cheboygan, Emmet and Alcona, but our friends are confident in each one and believe they can win out. There is also opposition in Gladwin, but this is not serious.

I believe that we will carry this district by a substantial vote.

In report on Montmorency County I failed to mention that we met on the road near Hillman, Hon. Herman Lundeen, member of the republican State Central Committee, who is supposed to be for us. Our boys up there tell me that they are a little fearful about him as he had shown some signs of wavering. I had quite a little talk with him and he seemed to be all right, so far as I could tell.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-P

August 6th, 1918.

Hon. Truman H. Newberry,
P.O.Box No.908,
New York City.

MACOMB COUNTY.

My dear Commander:

I left Detroit, accompanied by Mr. Sibben, for Macomb County, Tuesday, July 30th, at 11:15 a. m. Due

to the rush of calls at the office we missed the interurban car but flagged an auto and caught the car before it got out of town. The interesting fact about this is that the auto we rode in was driven by a non-resident, a Mr. Guild of Massachusetts, who is a relative of Curtis Guild.

W. T. Hosner, member of the republican State Central Committee, and George John, justice of the peace, Mount Clemens, chairman and Secretary respectively, of our committee, had arranged a luncheon meeting at the Sherman Hotel, at which were present the following: (26 names)

After lunch I made a speech, and was followed by Frank Nellis, who certainly did go after the democratic administration in good shape.

After the meeting I made some calls and found the sentiment very good, indeed. Among those I saw were the following: (9 names)

These men all expressed themselves favorably and I was very much pleased with the sentiment there. Justice John, who, by the way, is a live wire, has been conducting a number of straw votes, which shows as follows:

(Then the straw votes were listed)
(Cafes and barber shops, grocers and drug stores and the totals are: Newberry 40; Ford 21; Osborn 3.

He has also been getting sentiment among the townships by means of questionairs. So that you can get an idea of the exact situation I am enclosing a number of them herewith. Mr. John said we might retain these, so it will not be necessary to return them.

Mr. Hosner and Mr. John think there will be no question about Macomc.

We left for Port Huron at 3:18 p. m.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-CC.

August 6th, 1918.

Hon.Truman H.Newberry,
P.O.Box No.908,
New York City.

ST. CLAIRE COUNTY

My dear Commander.

I arrived in Port Huron about 5:00 p. m., Tuesday,

July 30th, and went to the Hotel where Mr. Sibben and I got out some letters.

Burt Cady, who is our chairman here, had made arrangements for a supper conference at Conkleman's restaurant. There was a splendid attendance, the following named men being present: (Enumerating 82 names) With their position and addresses.

Mr. Baird presided, and, being the only speaker, I made an extended talk which was very well received.

This county is one of the very best organized in the state, practically every active republican in the county being a member of our committee. One republican in the party told me that it is the first time in forty years, to his knowledge, that all republicans of the county have been agreed upon any one man or any one proposition. It was impossible to get them all at this meeting because of lack of accommodations and they want me to come up again, which I will do, if possible.

We left the next morning at 6:15 for Owosso, Shiawassee County, via Durand.

Sincerely yours,

Paul.

DEFENDANT'S EXHIBIT NO. 56-ee.

August 6th, 1918

Hon. Truman H. Newberry,
P.O.Box No. 908
New York City.

SHIAWASSEE COUNTY

My dear Commander:

We arrived in Owosso at 10:25 A. M. Wednesday July 31st, and were met by ex-Senator Corliss, our field man, and Neil R. Walsh, an attorney, and secretary of our committee.

I spent the time until noon conferring with Mr. Walsh, and getting in touch with the Detroit office and western Michigan headquarters by long distance telephone. At noon we had with us for a little conference Hon. W. A. Rosenkrans, cashier of the State Savings Bank and ex-state Senator Otto Sprague, druggist and former member of the State Central Committee, and Edward Conant, foreman in the Owosso Manufacturing Company. We went over the whole situation and it was agreed by all

that the conditions are very good. Fred Welsh, produce dealer and active republican, called at the hotel to assure us of his interest. W. D. Whitehead, druggist and our county chairman, was out of town. I had been able to give but a day's notice of my visit, so that it was too late for him to change his plans to be away.

After lunch we called on William Washburn, insurance man, Dr. A. L. Arnold, physician, A. D. Whipple, cashier Owosso Savings Bank, Rev. P. J. Slane, Catholic priest, J. Edwin Ellis, manager Independent Stove Company, Julius Kebler, barber and supervisor, Roger Smith, restaurant man, Ben Castle, junk dealer, James Mulhall, of the Mullhall-Erb Lumber Co., Ben B. Smith and Joseph Osborn of the Woodward Casket Co., Charles E. Rigley, Sr. of the Estey Manufacturing Co., Harry Northway, manager for Albert Todd, wholesale hay, Harry Parker, one of the proprietors of the granite and stone works, Hon. A. T. Wright, W. R. Goodrich, son in law of Mr. Ward, W. S. Patterson, chief of Police, Frank R. Forrester, constable, Hon. G. F. Friegal, Municipal Judge, Harry Walsh, cigar dealer, and Andrew Green, who works for us, all of whom are Newberry men.

G. L. Taylor, cashier of the City Savings Bank was away and I do not know how he stands.

C. D. Bell, superintendent, of the Owosso Sugar Company, Joseph Robbins of the Robbins Table Company, Dr. P. S. Willson, physician, James Rigley of the Estey Manufacturing Company, Leslie Parker of the Parker Granite and Stone Works and Milton Growe, city clerk were out but Walsh assured me that they were O. K.

James Mallancy, superintendent of the American Malleable Company, and W. J. Blood, lumber dealer, had not made up their minds.

At dinner we had with us Seth Q. Pulver, attorney and candidate for State Senator, who is behind the organization here, but on account of his own candidacy, is not taking part formally.

A smoker had been arranged at the Elks Temple, and the following named men were present:

(37 names, addresses and business)

At the smoker I made my usual speech, and speeches were also made by Senator Martin, Ex-Senator Rosenkrans, Dr. Hume, Mr. Godola, Mr. Hux, Mr. Brown, Mr.

Nichols, and others. It was a most enthusiastic meeting and just what was needed to stir up an interest.

We left for Durand to catch the midnight train for Lapeer, riding over with Mr. Freeman's party in his car. We found our train late on account of a wreck and worked in the ticket office of the depot until 1:00 a. m. getting out the mail. F. N. Simpson, night ticket agent, is for you and we are indebted to him for his courtesy in letting us use his office. When we were told that the train would be several hours late we went over to the hotel and went to bed, leaving the next morning for Lapeer at six o'clock.

This county certainly looks good. E. O. and George Dewey, of the Argus-Press and George T. Campbell of the Owosso Dailey are rather inclined to Mr. Osborn, but the papers themselves are neutral. We are told that there is considerable Ford sentiment in the factories. We have been doing some special work in the railroad shops and Mr. Hux of the Ann Arbor R. R. has circulated a special petition on which he had already secured eighty-four names pledging support; this out of a possible two hundred. He is going to keep on until he gets the rest of them.

We have also been doing some special work at Durand among the Grand Trunk Railroad men and have some good friends there. L. D. McArthur, a railroad man here, has been helpful in taking Mr. Corliss and Mr. Walsh around. T. C. Jones, Secretary of the Y. M. C. A. has also been helpful, and J. H. Arnold and Thomas Green also railroad men, have promised to do some work.

Other men in Durand who are for you are C. E. Van Sleight, proprietor of a garage, formerly Ford agent, Harry Thomas, proprietor of the depot restaurant, Glenn Hoag, village Treasurer, and Floyd Dutcher, supervisor. I did not see any of these people on account of the lateness of the hour.

Mr. Walsh is working hard and realizes that he has a great deal to do among the laboring men. He is confident however, and I feel that he will make good.

Sincerely yours,

PHK:S Paul.

DEFENDANTS' EXHIBIT NO. 56-11

August 6th, 1918.

Hon. Truman H. Newberry
P.O.Box No.908
New York City.

LAPEER COUNTY.

My dear Commander:

We arrived at Lapeer at 8:05 from Durand, a little sleepy, but still in the running. We had four hours rest, however, as we were in fair shape.

We were met at the hotel by George Carrigan, the sheriff, and chairman of our committee.

After communicating with the Detroit office and calling on my father in law, J. H. Bidwell, City Clerk, and for many years county clerk, Mr. Carrigan and I set out for a tour around the county, making the towns of Hunters Creek, Metamora, Thornville, Dryden, Almont, Imlay City, Lum, Kings Mills and North Branch.

At Hunters Creek we called on John L. Stier proprietor of the general store who was away, but who is with us. We left some literature and drove to Metamora.

Harry Andrews, farmer and supervisor who circulated our petitions here, was out of town. We called on Guy Fisher and Mark Swayne, barbers, who are O. K. and Don Gleason, grocer, Chester Walker, proprietor of a dry goods store, and Aaron Francis, harness maker, who were out and whose attitude I could not learn. We saw H. S. Brigham, cashier of the State Bank, and Lee Cork, hardware dealer, and Township clerk, who are both with us. A farmer whom we met on the street, A. N. Land (R. F. D.) and the garage man, Jerry Krieger, are also all right.

After spending twenty minutes here we drove to Dryden, stopping a moment at Thornville for a talk with Frank Richards, proprietor of the general store (address R. F. D. Metamora). He was out, but we met him on the road and I think we can count on him, although he did not positively say.

At Dryden we called on William Wilson, proprietor of a meat market, and deputy sheriff, H. R. Easton, hardware dealer who circulated the petition, Ward Peck

and Floyd Slate clerks in the bank, all of whom are O. K. Lee Berridge the cashier of the bank, and Dr. C. M. Braidwood, physician, were a way. Both of them are with us, however. On the street we met Elmer Bartlett, farmer, William Pickleman, farmer and supervisor, and Ira Bannister, a farmer. The first two are for you, but I am not sure about the last named.

We spent about half an hour here and drove to Almont, where we met William Hammond, manager of the Bell Telephone Co., Harry Bowman, and Dexter Bowman, his father, jewelers, Elmer Clothier, barber, Archie Burke, barber, George Wilcox, deputy sheriff, George Westcott, general store, and Charles Lewis undertaker, who are all Newberry men. Frank Bishop, proprietor of the Ford garage, circulated the Ford petitions here. I think, however, that he is a Newberry man at heart, from the way he acted. Wilbur Paton, editor of the paper was out of town, Charles R. Ferguson, Sr. banker and C. R. Ferguson, Jr., hardware dealer, are also with us. I also met on the street George Hough, a mail carrier, and T. R. Hough, his brother, a retired farmer, of Columbiaville, this county, but they did not commit themselves.

A poll was taken in this town on July 27th which went, Newberry 60, Ford 30 (undistributed as between republican and democratic) Smith 8, Osborn 8, undecided 11.

We had lunch here, after which we left for Imlay City, where we saw Allen Abbott, village marshal, John Learmont, hotel keeper, Dr. M. Washer, harness marker, and Guy Washer, also a harness maker, Ward Cornell and C. A. Cornell hardware dealers, Harry Armstrong, garage man, J. R. Sisson, drain contractor, Lewis Steele, produce merchant, Ray Baker, farmer and supervisor, and candidate for sheriff (P. O. address North Branch, R. F. D.) Abe Hamilton, farmer and supervisor, Oscar Spencer, G. A. R. man and a great booster, Louis Dennis retired hotel man, Leslie Collins, plumber, Axford Taylor, poor commissioner, Dr. G. W. Jones, physician, and republican leader, Stanley H. Larger, a dentist and active politician. Isaac McKillen, banker and secretary of the republican county committee, Walter Walker, elevator man with two sons in the service and Vanlue A. Patrick jeweler all of whom are for you.

I understand that the Ford garage man is about the only opponent here. The town looks all right.

At the little town of Lum we saw Dr. Harry Soper, a druggist, who is all right. J. Pierce and Guy Pierce, brothers and hardware dealers, were away, but are all right.

At Kingsmills we saw Frank Winslow and Ephraim Holmes, proprietors of the two general stores, and Fred Schwerein, farmer and elevator men, who are with us.

We arrived at North Branch at five P. M. and saw Mel R. Deo, druggist and our county chairman. Deo saw that we met Dr. S. A. Snow, physician, Clarence Sherman, druggist, Claude Farnsworth, pharmacist and telephone manager, Al Balbraith, editor of the Gazette and William Galbraith, and A. W. Huldvell, his assistants.

Dr. J. Marshall, dentist, George Kelly, manager of a grain company, Fred E. McDougall, hotel proprietor, T. F. Miller, insurance man, Dr. J. O. Thomas, physician, William Keeler, paper hangers, and J. H. Vandercar, druggist, who are all for Newberry.

We left at six o'clock for Mayville, Tuscola County, where we were to be met by a delegation from Caro. Owing to conditions it was necessary to cross our schedule between Lapeer and Tuscola County. I had my evening meeting Thursday in Caro, driving Tuscola County Friday, and returning to Lapeer Friday for an evening meeting.

At this meeting Friday evening the following men were present:

(37 names, addresses and business) continuing.

I made the opening speech and speeches were made by Mr. Smith, Mr. Johnson and others. It was a mighty good meeting and will do a lot of good.

Lapeer County is in excellent shape, and I am sure that we can carry it. There is very little sentiment for Osborn and he will get but few votes. Ford will get some of course, but I think we will get the bulk of them.

Sincerely yours,

PHK:S Paul.

DEFENDANTS' EXHIBIT NO. 56-zz.

TUSCOLA COUNTY

August 5th, 1918.

My dear Commander:

We were met at Mayville by H. S. Myers, a garage man at Caro, in charge of our county committee, Hon. Charles O. Hinn, member of the legislature, and William H. Cook, of Akron, formerly in the revenue service. Mr. Myers was driving his own car and took us to Caro, where a splendid meeting of active Tuscola County republicans had been arranged.

Those present were as follows: (97 names, address and business).

Of those present, Mr. Myers is sure that all are for you, with the possible exception of Scott Graham and Orlo Pattison.

Mr. Bush presided, and after my speech talks were made by Messrs. Dyer, Bender, Kirk, H. H. Smith, and Spears. Mr. Smith injected into the meeting the candidacy of G. R. Scranton of Harbor Beach against Congressman Crampton, and his remarks were seconded by Mr. Spears, who was Crampton's opponent the last time. I was somewhat disturbed over this incident, which was entirely unforeseen, but am assured it will make no difference in Tuscola, where the sentiment is altogether against Crampton among the leaders.

The meeting was a fine one in every way,—in fact one could not ask for a better one.

The next morning Mr. Myers took me to Mayville where I met Clarence Schram, banker and our committeeman here, A. R. Hanschke, miller, Ben Tuner, proprietor of a pool room, Rev. A. T. Witham, Methodist minister, S. G. Crankshaw, hardware dealer, Harmon Fox, grocer, Walter Blair, banker, A. E. Campbell blacksmith, James A. Duncan, clerk, Charles E. Brown and Earl Walker, produce dealers, Harry Lester, editor Monitor, F. W. Dearlove, jeweler; C. L. Barry, undertaker, E. D. Cartwright, proprietor of a department store, George H. Baird, farmer, G. W. James, G. A. R. man, Henry Krieger, drayman, Oscar Myers, oilman, all of whom are for you.

Lloyd A. Cartwright, of the department store, A. L. Phelps, dealer in agricultural implements, and David

Harp, hotel man, were out, but I understand they are favorable.

The sentiment in this town is splendid.

After an hour here we drove to Vassar and met Howard Smith, of the Smith Advertising Agency, George E. Burgess, deputy sheriff, H. B. Tibbitts, supervisor, Thomas Taggett, traveling salesman, O. B. Griffin, grocer, William Parry, furniture dealer, G. A. Stevenson, dry goods merchant, Charles Harpin, miller, Oscar Ellison, proprietor of a general store, G. W. Barrington, druggist, George Coleman, solicitor for the International Harvester Company, BC. H. Richardson, of the State Savings Bank, Frank North, an insurance man, A. W. Atkins, Thomas W. Atkins and O. B. Randall, hardware men, George D. Clarke, cashier Vassar National Bank, George King (R. F. D.) farmer, W. J. Spears, attorney and banker, who was present at the Caro meeting the night before. These men are all for you.

Charles Humes, a stock buyer, had not quite decided, but he is influenced by Spears and will be with us.

After lunch we drove to Tuscola, where we saw George Diamond, proprietor of the general store and our committeeman here, and later, on the way to Millington, Loren Van Cleave, highway commissioner. Both of these men are on our committee in Tuscola.

We also saw W. H. Harrison, postmaster, and George Dennis, farmer (post office, Vassar, R. F. D.) who did not commit themselves.

On the way to Millington we stopped at the farm of H. Conway, our committeeman in Arbela Township. Mr. Conway was busy at the time in his oat field, so we went out to see him, and while I talked to him Mr. Myer shocked oats. I wish you could have seen those oats. They were hip high and heavily headed.

At Millington we saw C. H. Cowles, editor of the Millington Gazette, Doctor Frank Allen, physician, John Lamon, justice of the peace, L. F. Bird, hardware dealer, and R. J. Petrie, hotel keeper, who are all for you.

E. L. Evans, attorney, and George Evans, clerk in the bank, were non-committal. The former circulated your petition here, but did it as a favor to Mr. Myers, and does not consider that he is bound to support you. Myers explained to me that he has an interest in the Ford agency here, which doubtless accounts for his attitude.

In Myers' opinion Evans will be all right, but he cannot take any part. D. J. Evans copartner in the Bank of Millington, was out of town. He is a brother of E. L., and is, I understand, O. K.

We left Millington at 5:30 and drove to Otter Lake, Lapeer County, where we were met by Sheriff Carrigan, who drove me to Lapeer for our evening meeting there.

Tuscola County could not very well be in better shape and I feel confident that we will carry it. We have a splendid committee who are putting forth their best efforts in our behalf.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-hh.

August 5th, 1918

Hon.Truman H.Newberry,
P.O.Box No.908
New York City.

OAKLAND COUNTY.

My dear Commander:

I drove from Lapeer to Pontiac, leaving the former place at about ten o'clock Saturday morning, August 3rd, after having communicated by phone with the Detroit office and signed up a lot of letters which Mr. Sibben had gotten out there. I arrived in Pontiac at noon and was met by Hon. Frank L. Covert, attorney and member of the State Central Committee, who is taking a very active part in your behalf.

We went over to the cafe where a noon luncheon meeting had been arranged, at which the following named men were in attendance. (Naming 55 and giving their address and business).

The names shown in the foregoing list which are preceded by (x) are of men who circulated your petitions there.

We stayed out of this county until a late date on account of the candidacy of Ex-Governor Warner. I got busy immediately on his retirement. Work which has been accomplished under the direction of Senator Covert and ex-Senator Thad. E. Seeley is remarkable. They have secured from petitions already returned to them eleven hundred signatures and the petitions are not yet

all in. Of course it is too late to file them, but they are valuable in pledging support and as mailing lists.

The only trouble in this county will be in the factories and our friends are preparing a vigorous campaign to cover this phase of the matter. They are confident they will carry the county by a good majority.

After the meeting I met Theodore E. Millington, consulting engineer of the General Motors Corporation, in the office of Mr. Seeley. He is with us and will do all that he can.

I stopped at Birmingham on my way to Detroit, and met Thomas H. Cobb, cashier of the First State Savings Bank, who is with us, and his brother, James H. Cobb, druggist, who secured a splendid list of signers on your petition.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-jj

August 8, 1918.

Paul H. King, 310 Ford Building, Detroit, Michigan.

Please have a letter here for me early Sunday morning that Hays can show the Colonel with fact proving Osborn cannot win and I can. They may send for him if convinced he should quit. His backers have already after repeated SOS calls. Mailed you labor questionaire tonight immediately on receipt exactly as suggested.

Truman H. Newberry.

Sent from Biltmore.

DEFENDANTS' EXHIBIT NO. 56-kk

Flint, Mich.Aug.9,1918.

Hon.Truman H.Newberry, 280 Broadway, New York.

Letter 6th received containing text of your friend's note. His active assistance certainly most desirable. A speech in Michigan or a public statement would have tremendous effect. Have visited Washtenaw, Livingston, Isabella. Conditions fine. Will see you twenty.

Paul H. King.

DEFENDANTS' EXHIBIT NO. 56-ll

August 9, 1918.

Dear Paul:

I received last night your various letters dated August 5th and reports covering Tuscola, Iosco, Oakland,

Arenac, and Alcona Counties, which, as usual, I devoured with great interest. All these reports will make a wonderful record for the future, if there is one.

Answering particularly your letter of the 5th covering various matters, particularly the work of the Workmen's Publicity Committee, I filled out the questionaire and mailed it to you after stretching my conscience and imagination to nearly the breaking point. Curiously enough the questionaire did not require a signature, but naturally I feel bound by the answers that I have made in my own handwriting.

I am enclosing you copy of a wire sent you last night, in compliance with the request of Will Hays with whom I had an interview on Tuesday afternoon, at which time he reiterated his earnest hope for my success, as did Senator Crane whom I saw shortly thereafter. Hays was going up to Maine and expects to meet the Colonel (I presume at Sagamore Hill) this Sunday morning. For that reason he wanted to have the last absolutely authentic information, which he could take down to the Colonel, and they would then decide what action, if any, was desirable. He feels if we have made than a good chance to beat Ford and if Osborn's candidacy is not a serious factor in my success, they would leave him alone. If his subsidence at this time would insure my success, they might send for him and make arrangements, as in other cases, which would insure his being looked after in case of a Republican presidential success.

There is much more information about Osborn's present plight I will tell you when I see you. The statement that he is short of ammunition is an absolute fact. Whether or not this was a feeler, I will leave to you to judge when I talk to you about it.

I have noticed Osborn's strength with the labor people and, of course, do not understand it but am thankful we have a fighting minority which I hope has gained enough time to include my views in their circular of the Workmen's Publicity Committee.

I am enclosing a copy of my non-committal reply to the Grand Rapids people, which covers the situation in a rather flimsy manner.

You will be interested in the enclosed letter from

Simpson with Mr. Hays' reply, which he gave me the other day.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King, 310 Ford Building, Detroit, Michigan.

P.S. Your three letters of August 6th covering Macomb, Midland and Gladwin counties have just reached me.

DEFENDANTS' EXHIBIT NO. 56-mm

August 9, 1918.

Paul H. King, Three Ten Ford Building, Detroit, Michigan.

All enlistments in entire country stopped today order Washington. When resumed Palmer can enroll here.

Wright.

DEFENDANTS' EXHIBIT NO. 56-nn

Flint, Michigan, August 10, 1918.

Hon. Truman H.Newberry, 280 Broadway, N.Y.

Emery will be there Sunday with letter and data. Fine editorial Free Press this morning.

Paul.

DEFENDANTS' EXHIBIT NO. 56-oo

August 10, 1918.

Paul H. King, 310 Ford Bldg., Detroit, Michigan.

Wish you could see Senator Smith. Received this morning non-committal letter from him. Why is Emery coming to New York?

Truman H. Newberry.

DEFENDANTS' EXHIBIT NO. 56-pp

August 10, 1918.

Dear Paul:

I received a telegram from Emery this morning stating that he was coming to New York and immediately wired to ask you why, as it seemed to me a waste of his time and energy if he were only bringing some papers. However, I suppose there are other good reasons, and I shall be glad to see him and have a chat in any event.

Will Hays just telephoned me to say that he had a talk with Colonel Roosevelt, who has received a great many letters on the Michigan situation and was very keenly interested. The Colonel is arriving home tonight

or tomorrow and wanted me to come down there Monday morning, which is, unfortunately, out of the question, but I have arranged to go down Monday night with Will Hays, at which time I will take the papers Emery brings, and will probably hear something of interest—particularly Osborn's side of the case and probably a criticism of the amount of publicity that has been found necessary. I told Hays I had no favors to ask of the Colonel and no arguments to make in the matter, and could not see the object of my going down to Sagamore Hill, but he insisted that the Colonel wanted to talk with me, so I, of course, will go.

Your wire just received about the FREE PRESS editorial, and I am consumed with curiosity to know just how far the paper has committed itself to any one candidate or if it is simply anti-Ford or anti-Osborn.

May I call your attention to enclosed copy of telegram just received in which you state you will see me on the 20th. My understanding is that you and Allan will be here on the 13th, but of course, any day of which I have advance notice will be satisfactory.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King Detroit, Mich.

DEFENDANTS' EXHIBIT NO. 56-qq

August 14, 1918.

Paul King, Ford Bldg., Detroit, Mich.

Received nine tonight from Grand Rapids quote thanks for your wire of the 11th. I am still waiting to hear from your committee at Detroit from which no word has come as yet. I feel that this matter must be given earliest possible published attention.

Signed A. A. Vandenburg, Publisher.

Grand Rapids Herald. End of quote. Please advise me when your answer was mailed. Truman Newberry.

DEFENDANTS' EXHIBIT NO. 56-rr

1918 August 15th.

Detroit, Mich.

Lieutenant Commander Truman H. Newberry, 280 Broadway New York City.

Your telegram received. Letter from committee to Vandenburg mailed out today. Paul H. King.

DEFENDANTS' EXHIBIT NO. 56-ss

August 15th, 1918.

WASHTENAW COUNTY.

My dear Commander:

I left Detroit for Ann Arbor, Michigan at 5:15 P.M. Tuesday August 6th, arriving there at 6:15. A supper meeting had been arranged at the hotel Allanel by Mr. Richard Owen, chairman of our Washtenaw County Committee. It was what might be termed an "experience" meeting. Every one of the men present making a report on conditions in his own locality. These reports were certainly splendid, indicating an absence of Ford sentiment amongst Republicans, and practically no Osborn support. Those present were as follows:

(List of names here followed)

I was called upon for a talk, and Judge Newkirk made a splendid speech, in which he did not mince matters at all insofar as Ford is concerned.

I left for Pinckney, Livingston County, Wednesday morning August 7th, at eight o'clock, being driven over by Judge Newkirk in his car. On the way over we stopped and interviewed George Francisco, President of the Dexter Savings Bank, John Thompson, editor of the Leader, Clarence Alley, proprietor of the general store, John Becker, barber, Henry Phelps, retired farmer and mail carrier, Charles Phelps retired farmer, James Page, also a retired farmer, and Doctor M. K. Guinan, physician and druggist. These men are all strong supporters. Doctor Guinan used to be at the Hotel Cadillac, Detroit, and says that he knows you. He is certainly very enthusiastic.

I also met Isaac Savoy, a retired farmer, who did not commit himself.

Our friends here are very confident of carrying the county and I see no reason why they will not.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-tt

August 14th, 1918.

LIVINGSTON COUNTY

My dear Commander:

We arrived at Pinckney at 10:30 A.M. Wednesday

August 7, accompanied by Judge Newkirk of Ann Arbor who drove me over in his car. I met our good friend, Hon. George W. Peeple, banker and ex-state Senator, whom I have known for a good many years. He is doing all he can to help.

I also saw Thomas Read, elevator man, L.E. Smith, editor of the Despatch, Charles J. Peeple, hardware dealer, E.G. Lamberton, bank clerk, H.W. Crofoot, proprietor of a restaurant, and Charles A. Ingersoll, druggist.

I left at 11:30 for Howell, the county seat. Mrs. McPherson and Miss McPherson, wife and daughter of Hugh McPherson, a banker and our county manager, drove over after me. We arrived at noon and went to the hotel for a luncheon conference, at which the following were present:

(Page and a quarter of names and business of gentlemen)

All of these men are Newberry men.

I also met A. L. Smith, cashier of the First State Savings Bank. He is for Osborn but we have hopes of getting him. John Barron, druggist, Mr. Wines' partner, is also an Osborn man.

I am very much pleased with Rev. Brook's promise of support because I figured he would be for Osborn also. The ex-Governor was here this spring and delivered one of his splendid addresses in the Presbyterian church and for a time nearly stampeded the town. Smith, Barron and a few others, are still under the spell.

Wesley Kruger, grocer, and prominent Republican was out, but I understand that he is all right.

G. K. Dunning, county surveyor was non-committal, but McPherson and Shields thought they could get him.

We traveled over to Fowlerville, the other large town in the county and spent a few minutes there, meeting Fred Kuhn, retired, who is on the sick list, but who is considered one of the most influential Republicans in the town, Wilbur Cobley and Louis Cobley, his son, carpenter contractors, Freeley Calkins and James Albright, proprietors of a meat market, Morgan Vaughan, barber and Andrew Novara, proprietor of a soft drink establishment. These men are all for you. Novara is not a citizen, but wants to help and I am sending him some literature.

On the way back to Howell, we picked up Hon. Silas

Munsell (address RFD) farmer and former member of the legislature. He is O.K.

We spent so much time in Fowlerville that I could not make my train for Mt. Pleasant and so I spent the evening in Howell. There was a street carnival in progress and I spent my time on the street with Mr. McPherson meeting with farmers and others from various parts of the county. Among these were:

(Here follows list of names).

All of these are for you.

D.D Monroe, shoe man, on whom I called during the evening, was non-committal, but I think he is for Osborn. I also met Tracey Crandall, a farmer, who did not commit himself, and Benjamin Wilson, one of the poor commissioners, who lives at Brighton, also non-committal.

George Adams, a farmer (address RFD Fowlerville) whom I met, is O.K.

From these names you can see that I came into touch with men from all parts of the county and was in a position to get a very good line on the sentiment. There is positively no excitement or enthusiasm whatever, but every time I scratched the surface, so to speak, I found Newberry sentiment. Mr. McPherson is very confident that we will carry the county. He does not believe in any band wagon methods, but is relying entirely on quiet but effective work. I stayed all night at his home and left the next morning at 10:20 for Mt. Pleasant, Isabella County.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-uu

August 15th, 1918.

My dear Commander:

ISABELLA COUNTY.

I arrived in Mont Pleasant at 2:20 p.m. Thursday, August 8th, and was met at the depot by the sheriff, James E. Coon, who took me into custody, so to speak. We went to the office of E. J. McCall, editor of the Times, where we were joined by Frank A. Morrison, county school commissioner and chairman of our committee. We went over plans for the campaign in the county for about an hour and then made some calls.

The first people we saw were the county officers, Harry Thompson, county clerk, Virgil McClintic, prosecuting attorney, Roger Scott, county treasurer, and Hon. Charles Cassidy, Judge of Probate, who are all O.K. Thompson was just sending a return postal card to Frank M. Sparks, managing editor of the Grand Rapids Herald, giving him a line on the Senatorial situation. Thompson's report showed you first, Osborn second, Ford third, and Simpson fourth.

We called on Hon. Walter Horn, assistant cashier Exchange Savings Bank and Mayor of the City, B.M. Gould, editor of the Enterprise, Hon. Francis H. Dodds, attorney and former congressman, William Cooper, real estate agent, Stephen Fall, sugar beet contractor, Hon. Frank H. Dusenberry, attorney and ex-member of the legislature, Francis McNamara, attorney, Chester A. Kellogg, merchant, Edward Winslow, foreman in the chemical works, Hon. Cyrus E. Russ, justice of the peace, John Benford and Levi Bohles, assistant cashier and teller, respectively, of the Isabella County State Bank (John S. Weidman's bank), Frank J. Sibel, traveling man, Kinney Lewis, clothier, and John W. Kellar, retired farmer. These men are all for you.

At supper we had a few of the leaders in for a conference, including Messrs. McCall, Morrison, Horn, Thompson, Coon, Martin, Menery, and M. F. Youngs. After supper we drove to Shepherd and met a number of the leaders there.

This has been quite a strong Osborn center, but things are now coming our way.

On the way to Shepherd we called on G. V. Keyser (P.O. address Shepherd), a young farmer of Lincoln Township, who stopped milking long enough to talk to us. He is O.K. and, being very influential in the township, will be in a position to carry it for us, which he will do.

In Shepherd I met Doctor H. V. Abbott, physician, Royal Burdick, real estate man, H. E. Struble, real estate, Harry M. Wetzel, hardware, Burt Gibbs, editor Republican, and Hon. O. H. Adams, farmer and ex-member of the legislature, who are all O.K.

On the way back to Mount Pleasant, although it was late, we called on Fred Walton, a prominent farmer, and found that he is with us strong.

We were driven over by Mark McMarchkin, the Buick agent, in a fine new Buick car.

I did not see Arwin E. Gorham, nor John S. Weidman, banker and our chairman. It was thought best to have Frank Blair write Gorham, and Weidman was out of the city.

In the barber shop I met S. Smiley, Mt. Pleasant R.F.D., a prominent farmer, who is with us. On the street in Mt. Pleasant I also met William Johnson of Shepherd, who works for the sugar company. He is all right.

Some very good work has been done in this county to avoid trouble on account of factions. Our friends here advised us to get the other side interested first, which we did, then they swung in behind, so that, as far as active Republicans are concerned, it is unanimous. Morrison thinks there is no doubt that we will carry the county by a substantial majority.

I left at midnight for Flint, via Durand, arriving at Durand at 3:00 A.M., leaving there for Flint at 6:00 A.M.

Sincerely yours, Paul.

No cross examination.

DEFENDANTS' EXHIBIT NO. 55-vv

August 15th, 1918.

Hon. Truman H. Newberry,
P.O. Box 908
New York City.

My dear Commander:

I am enclosing herewith the proof of an advertisement which will appear next week showing the endorsement of leading farmers and men interested in agricultural matters throughout the state. This should help.

Our only weakness is with the labor vote and my reports indicate that we are getting stronger there. The Flint Labor News, which has been strongly Osborn, is weakening, and I am sending a man there today with a page advertisement for insertion just before the primaries. As is natural, many of the reports that I am getting now indicate "grief" of various kinds and I am straightening out the troubles as fast as they come along.

I expect to be in Detroit most of the time until the

primary. I speak at Marine City Friday evening and will be in Grand Rapids Sunday and Monday.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-xx

August 16, 1918.

Lieut.Commander Truman H. Newberry.
P.O. Box No. 908
New York City.
My dear Commander:

Colonel Roy C. Vandercook, head of the Michigan Constabulary and our warm friend, is coming to New York to make arrangements for the reception and care of wounded Michigan Soldiers and Sailors back from the front. He would like very much to see you Tuesday and I am giving him a letter of introduction.

He is a splendid fellow and I know that you will be glad to be of any service possible.

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-yy

August 16, 1918.

Paul H. King, 310 Ford Building, Detroit, Mich.

Please send me Postal lettergram to Red Top Watch Hill RI Saturday night giving your cold conservative opinion of the situation with special references to whether sentiment is increasing or decreasing during past week. I sent you special delivery letter confirming this wire today.

Truman H. Newberry.

DEFENDANTS' EXHIBIT NO. 56-zz

Detroit, Mich., August 17, 1918.

Truman H. Newberry, Red Top, Watchill, R. I.

Just got in from Marine City. Splendid meeting there last night. Your three wires reed. Feel confident we will win sentiment increasing daily. Attitude of Groesbeck representing Ford and Vandenburg representing Osborn neither surprising nor disconcerting. Do not think you should communicate with Osborn Groesbeck or any of them they are licked and know it. Simply squealing now. Know you will follow your own advice and not rock the boat. Will be right here from now on.

Paul.

DEFENDANTS' EXHIBIT NO. 56-aaa

Detroit Mich Aug 17, 1918

Lieut Commander Truman H. Newberry
Red Top, Watch Hill R.I.

Afternoon wire received. Investigation shows no foundation for Groesbeck story. Stair out of town for ten days. Vandenberg had our correspondence front page Herald today with sarcastic editorial. I understand stating that our letter did not cover point but suppose people would have to be satisfied. Have not been able to secure copy of paper. Do not think that this will be serious. Shall pay no attention to it. Splendid reports today from counties in all parts of the state. News says nothing. Hope you will not worry. Best regards.

Paul King.

DEFENDANTS' EXHIBIT NO. 56-bbb

August 17th, 1918.

Hon. Truman H. Newberry,
P.O. Box No.908
New York City.

My dear Commander:

You will remember Charles A. Parcells, director from Michigan of the Boys' Working Reserve? He is the one for whom you wrote the address to the boys in Michigan.

He called on me today and told me that he was getting restless and wants to get into the service, mentioning Naval Aviation. He is thirty years old, married, and has one child. He is now in Class 2 and will soon be in Class 3. He is a graduate of Yale University, class of 1912, was for three years assistant to Dean Jones. He has just been summoned to Washington to be assistant national director of the Boys' Reserve, but feels that this is not active enough service for him.

He is willing to go into the Army if he cannot serve in any broader capacity, but naturally feels that, with his training and experience, he might be able to serve in a larger field.

Have you any suggestions as to how he should proceed about it to realize his ambition?

Sincerely yours,

Paul.

DEFENDANTS' EXHIBIT NO. 56-eee

August 19, 1918.

Dear Paul:

I wish to acknowledge your letters of August 14th, 15th (4) and 16th, which together with your telegrams, which reached me at Watch Hill, were most reassuring. Mrs. Newberry tells me she is certain we are going to win, and as she has confidential relations with extra terrestrial authority, it would appear that your confidence is well placed.

I have heard no more from Mr. Hayes. I sent him a telegram asking him to tell ex-Governor Osborn that I was sorry I did not know he was to be in New York as I believed a frank talk would have been beneficial to our State. I certainly have no desire to meet him, as I am under the impression that an interview would have been devoid of any useful result.

On the train from Boston last night, there was a financial friend of William Alden's who was disgusted at his attitude and made some very practical suggestions as to how the attitude of William's paper could be secured. I will tell you more about this man when I see you. It is of no importance now.

When Colonel Vandercook arrives, I shall be glad to give him all the help possible.

I am enclosing a letter from Mr. Crutcher in connection with the medical profession which is worthy of consideration, if it already has not been attended to. This doctor business is a little bit dangerous because the Grace Hospital was founded as a Homeopathic Institution but has always admitted doctors of the old or Allopathic Schools, and probably today would be called a general hospital, although its Medical Board is mostly Homeopathic. Ford's Hospital interests should also be considered before you do anything, and at any rate it is probably long past the time now when you want to stir anything up.

If we are successful, as you expect to be, I will, of course, want to see you as soon as possible about the campaign itself. It is possible that I may have a few days' leave and would it be desirable for me to have a supper at the Athletic Detroit Club on the 31st. Where I could meet the County Chairman and the active people

in your office or elsewhere, when I could briefly express my thanks and appreciation? This sounds a good deal like "counting chickens" but if anything of this kind is to be done I will have to be ready to act on the 28th.

Sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

DEFENDANTS' EXHIBIT NO. 56-fff

Detroit, Mich., Aug. 20, 1918.

Lieut.Commander Truman H. Newberry, 280 Broadway, New York, NY.

Everything all right here. Vandenburg had story today first page showing you have big lead over other candidates. No editorial opinion seems to be that his editorial Saturday will help more than hurt. People are saying sour grapes. Colonel Vandercook will be there tomorrow morning and will call with letter of introduction.

Paul.

DEFENDANTS' EXHIBIT NO. 56-ggg

August 20, 1918.

My dear Paul:

Replying to your letter of the 17th concerning Charles A. Parcells, I regret there is nothing we can do until the new draft law is passed and enlistments are again permitted in the Navy. At present the door is closed tight and no one can tell under what conditions enrollments will be permitted. Just as soon as there is any information given out if you will have Mr. Parcells write me direct telling exactly what he wants to do, I will, of course, be glad to help him.

Your night letter of the 19th came about eleven this morning. I am glad to know that everything seems to be progressing all right. I have not seen Vandenburg's story of last Saturday. Colonel Vandercook has not yet called but I am expecting him today in accordance with the information in your wire.

I am enclosing herewith a copy of an article which appeared in yesterday's Sun. I am wondering if you know who wrote it.

Last night I had an appointment with Mr. Durant at his request, and found him anything but hopeful. He seems very much interested but states we will have a hard battle if successful. He had no suggestions beyond some pictures or cartoons which he had outlined in his mind, that he thought would be very effective. Of course, it was too late to act on his ideas, even if they were approved by your Committee.

I hope you are not getting too tired out with the rush of work in these last few days.

With kind regards to all in the office, I am

Very sincerely yours,

Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

DEFENDANTS' EXHIBIT NO. 56-www

August 26, 1918.

My dear Paul:

On the eve of Primary Day I feel that I should record to you, regardless of the outcome, my very deep sense of obligation and everlasting appreciation of the intense personal enthusiasm and effort, that you particularly, and each member of your Committee, have put into the Primary campaign for my nomination for United States Senator. No words that I can write or could say can begin to tell you how deeply I feel on this subject, and particularly at this moment, when, at the last hour, purely political attacks have been made on you personally, and on your Committee, for the purely patriotic efforts you have made and for the many days and hours of your time that have been devoted to what has seemed to you to be the best interests of our State and National Government.

I fully realize that my personality has been entirely submerged and is of no importance whatever in the great fight you have made against the insidious efforts of Capitalized Pacifism, which have mislead one of our state leaders into an entirely unwarranted and wicked misstatement and distortion of the facts concerning the Committee's activities. Most of the citizens of Michigan already know, and all who have the opportunity must know, that all the publicity and advertising, of which

you have been the directing head, have been with the sole idea of making known the Truth, and even in the heat of the campaign, not one suggestion has been made that you have endeavored to do anything else;—all of which makes conspicuous the fact that the truth about supporting with intense loyalty and devotion every soldier and sailor in our Army and Navy, and the arousing and development of patriotism, is objected to by a certain well-known and abhorrent type of individual and newspaper which has from the outbreak of the war made every effort to discourage patriotic efforts and has withheld its support from wise and necessary laws endorsed by our President and passed by Congress to raise and maintain our fighting forces.

While tomorrow's Primary vote will record the result of your efforts, please know that every day I live will be a reminder of this obligation and debt to you, which I can never repay except when some fortunate hour arrives when I may reciprocate in actions instead of words, this sense of real and deep thankfulness that I have such friends as you and the other gentlemen associated with you on your Committee.

Your devoted and sincere friend,
Truman H. Newberry.

Mr. Paul H. King,
310 Ford Building.

MR. DAILEY: There are some other exhibits offered here that have not been read in evidence. We certainly want them read.

MR. MURFIN: Your Honor will recall that when we started to offer these exhibits, your Honor said they would have to be offered one at a time, and I have offered all the exhibits that I think are proper under your Honor's ruling. I have no further exhibits to offer.

THE COURT: If there are any other exhibits, they may be offered.

MR. DAILEY: We offer on behalf of the Government the letter dated August 20th which has been marked Defendants' Exhibit No. 56-kkk.

MR. MURFIN: That is a letter, if your Honor please, which contains a great many different enclosures, and as the court ruled the enclosures could not go with the letter, I am not offering the letter in evidence.

THE COURT: If there is any portion of the letter itself that the Government desires to offer, they may offer it.

MR. MURFIN: I do not understand upon what theory the Government at this time offers exhibits which I do not offer. Your Honor told me that I could not offer these in a group, but I must offer them individually.

THE COURT: That was a misunderstanding. If I said that, I did not intend to say that. What I said was, being offered as a group, that I could not rule upon the individual paper. I had not any intention of requiring the reading of all of the exhibits, but would have to pass upon them individually.

MR. MURFIN: This particular exhibit refers to things which in our judgment do not make the exhibit competent or proper unless the enclosures, which your Honor has ruled out, are received with it, and for that reason, I do not offer the exhibit.

MR. DAILEY: The Government has now offered the letter marked Defendants' Exhibit No. 56-kkk as a part of the examination.

THE COURT: If there is anything in this correspondence that the Government desires to offer, they should now offer it. I haven't passed upon the admissibility of it at all. I am simply saying it may be offered, and then I will pass upon the question as to whether it is admissible or not.

THE COURT: Let us have it if it is offered.

MR. SMITH: I take an exception to the offer of Mr. Dailey.

THE COURT: This is a part of the cross examination and going in in the same way that the direct examination has gone in. If you let me see the exhibit I will pass upon the question of its admissibility.

(Mr. Dailey hands letter to Court).

MR. MURFIN: May I ask your Honor in this same connection to admit in evidence and to be read with it the enclosures therein referred to?

THE COURT: I don't think so. There have been other letters written in the same way.

MR. MURFIN: Exception.

THE COURT: The letter itself, very much of it, has reference to other matters than enclosures.

MR. MURFIN: That is true. The other letters, your Honor, that have been in the nature of enclosures have been by the agreement and consent of Mr. Dailey and myself.

Mr. Dailey here read to the jury as evidence on behalf of the Government

DEFENDANTS' EXHIBIT NO. 56-kkk

August 20th, 1918.

Hon. Truman H. Newberry,
P. O. Box No. 908
New York City.

My dear Commander:

I am enclosing herewith the articles appearing in the Grand Rapids Herald, although you may have already received them from your Clipping Bureau. The publicity which the Herald is giving us, I think, is really very helpful. As indicating how little effect its "knock" had, would say that I received a voluntary subscription to our campaign fund this morning from one of the leading business men of Grand Rapids.

Enclosed also please find Floyd's reports on the Camp Custer vote, the Great Lakes vote, and the Railroad mens votes.

We are putting on factory meetings in Detroit this week according to the following schedule:

Monday	Burroughs Adding Machine Co.,
Tuesday	Dodge Brothers,
Wednesday	Packard Motor Company,
	Michigan Stove Works,
Thursday	Detroit " "
Friday	Continental Motor Company.

We have precinct organizations in 19 wards in the city. This is supplemental to Mr. Oakman's work. We are also holding meetings in other parts of the state. I am enclosing a schedule of Hon. H. S. Earle, Clarence E. Holmes, Superintendent of the School for the Blind is on the stump as is also Senator Scully of Alma, former Master of the State Grange, Ladd of Massachusetts, and others.

I do not look for any trouble from any of the Detroit papers, unless possibly the News might have something to say as a final word. The Free Press is, of course, all right. I had a long talk with Charlie Cameron of the Journal last night and told him the whole situation and disabused his mind of the idea that the question of expenditure is an issue in the campaign, explaining to him the animosity of the Grand Rapids, the Charlotte Republican and the Escanaba Journal. This morning he called me up to say that Lieutenant Governor

Dickinson had put out a statement on the Associated Press wire calling attention to our advertising expenses and money spent for postage, speculating on the number of workers and calling upon you to withdraw. He asked me if I had any statement to make and I told him I certainly would not waste any of his valuable space by replying to a statement from Mr. Dickinson. I do not believe there will be any discussion locally, but if there is, we will take care of it along the line of our Grand Rapids letter.

Sincerely yours,

Paul.

MR. DAILEY: Now, your Honor, the Government offers in evidence the exhibit which has been identified as Defendants' Exhibit No. 56-aaaa.

MR. MURFIN: I have no objection to this.

The letter referred to was read to the jury as follows:

DEFENDANTS' EXHIBIT NO. 56-aaaa

Detroit, Mich., Aug. 31, 1918.

Lieut. Commander Truman H. Newberry
Red Top Watch Hill RI

Am cleaning up work of committee which will take all of next week. Am keeping part of staff but am moving to new location tonight. Detroit News continues attack on committee another editorial yesterday. Am preparing about five thousand letters of thanks for your signature. Where shall I send them? I met Mangum and Hays. Chicago Monday, back here Tuesday.

Paul.

MR. DAILEY: The Government now offers to read in evidence the exhibit which the defendants have had marked Defendants' Exhibit No. 56-lll. That is Charles Floyd's letter to King on August 17th about Camp Custer vote.

MR. MURFIN: That is one of the enclosures in this other letter.

The letter referred to was here read to the jury by Mr. Dailey, as follows:

DEFENDANTS' EXHIBIT NO. 56-lll

August 17, 1918.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

Subject: Camp Custer Vote.

Dear Paul:

At the present time there are about 16,000 Michigan men at the camp, and we arranged to have a general order issued to the various regiments and other organizations of the 14th division, instructing commanding officers to turn in the list of Michigan men, together with their home addresses, Friday noon, August 16. This has been done, and the official list as turned in has been brought to me here. I am sending out a Bolo Club letter to each and every one of these men, so as to reach them about Wednesday, the 21st.

We have arranged an organization of notaries to start through the camp Monday, the 19th, and get all of the applications filled out, mailing them at once to the various clerks. In a similar manner the ballots themselves will be taken care of, with the affidavit on the envelope filled out by the notaries, when they are received from the clerks. We have secured the cooperation of the Y. M. C. A. secretaries and those in charge of the Jewish, Masonic and Knights of Columbus clubs. We shall get all of these votes.

In sending out the list, we are enclosing a post card with the request that the soldier mail it to their father, brother, or next of kin voter, asking him to support the man in the service, Commander Newberry.

Yours truly,

Charles Floyd.

MR. DAILEY: The Government now offers the letter marked Defendants' Exhibit No. 56-mmm.

MR. MURFIN: That is another one of the enclosures.

DEFENDANTS' EXHIBIT NO. 56-mmm

August 17, 1918.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

Subject: Great Lakes Vote.

Dear Paul:

There are between thirty-five hundred and four thous-

and Michigan men at Great Lakes. I secured a letter from the Secretary of State to Captain Moffett, the Commandant requesting official action to be taken to see our Michigan boys have a chance to vote. We secured another letter from him introducing our field men and requesting assistance.

We have now arranged through the commanding officers for an official order to all regimental commanding officers, that all Michigan men be allowed time to report at the Main Garage, Wednesday the 14th, to fill out application blanks and have them sworn to before notaries. Through my Chicago friends, the Medill McCormick crowd, we secured eight notaries who worked all day Wednesday handling the applications. The blanks were then mailed out to the various clerks around the state of Michigan. We have arranged for notaries to again be at the Main Garage all of next week to take care of the affidavits which are printed on the back of the envelope into which the absent voter places his ballot.

There are approximately 120 men divided through the various camps and regiments, making it their particular business to interest the other boys in Commander Newberry.

We had a notice put in the official paper concerning the above, and this is read by everyone at the Great Lakes.

Very truly yours,

Charles A. Floyd.

MR. DAILEY: The Government now offers in evidence the Exhibit defendants had marked Defendants' Exhibit No. 56-nnn.

MR. MURFIN: There again is an enclosure within an enclosure. These are all enclosures he is selecting from the exhibit already in evidence. If he wants both of these I have no objection at all, but I think they ought to go together.

THE COURT: The ruling will be the same as it has been from the beginning. If they are letters from one of the defendants to another they are admissible, relating to the issue.

MR. MURFIN: The enclosed report is from a gentleman who is not now a defendant. I personally don't wish to be understood as objecting to it, except I want to call attention to the court's ruling. It may go in or out as Mr. Dailey wants. If he wants it in I shall not object to it.

THE COURT: It comes squarely within the rule.
MR. MURFIN: He is no longer a defendant.
THE COURT: Mr. Moore is a defendant in this case.

DEFENDANTS' EXHIBIT NO. 56-nnn.

August 17, 1918.

Mr. Paul H. King,
310 Ford Building,
Detroit, Michigan.

Subject: Railroad vote.

Dear Paul:

Our field work with railroad men continues actively, and to give you an idea of the results, I am attaching a report from A. K. Moore covering last week. This is surely making Newberry sentiment, and this end of the campaign will be pushed vigorously through the remaining days before primary.

Very truly yours,

Chas. A. Floyd.

MR. DAILEY: The Government now offers to read in evidence the exhibit which the defendants have had marked Defendants' Exhibit No. 56-ooo.

The paper referred to was read to the jury as follows:

DEFENDANTS' EXHIBIT NO. 56-ooo

Report of trip made by A. K. Moore and Geo. R. Murray.

Mackinaw City.

Meeting of Mackinaw Div. R. Y. Men's Relief Assn held Mon. Eve Aug. 5th was well attended and remarks were well received by the members and all expressed their intention of voting for Newberry. The following took literature and promised to work among their friends Fred Miske, foreman G. R. & I., Geo. Ranville, Clerk, R. Deasy, Theo. Duffield, C. J. Dietz, H. L. Fuller, Wm. H. Plant, Edgar Edley, Sml. H. Sprague, Chas. R. Robertson, C. R. Milliman, 878 Grandville Ave. Gd. Rapids.

GRAYLING.

Good attendance at the meeting and all were for Newberry. The following agreed to work and help all they could: J. H. Humphrey, M. C. Lineman, C. J. Schreck, Roy Foor, Chas. Lytle, John Harrison, Nick Shepherd, W. A. McNeil, R. G. Durfee, M. C. Line foreman.

BAY CITY

All members of the Assn. at the meeting expressed themselves as favoring Newberry and the following took adv. matter and agreed to work: James O'Brien, 1114 Van Buren, S. J. Britton, 1007 N. Van Buren. As far as the railroad men of Bay City are concerned I believe they are largely in favor of Newberry.

SAGINAW.

Small attendance at the meeting but Mr. Murray and I covered the yard and other departments and found no Ford sentiment to speak of and none for Osborn. The following willingly took adv. matter and will work among their friends: Able Palmer, 708 No. Jefferson, Mike Tobin, 407 Wadsworth, John McPeak, 623 State, W. K. Andrews, P. M. Freight office.

FLINT.

Had a fine meeting here and with almost no exception those present were for Newberry. Mr. H. E. Myers Agt for the P. M. R. R. who has been circulating petitions reports that there is much more Newberry sentiment than a few weeks ago and that R. R. men were almost united for us. The following volunteered to work and took literature: A. A. Robinson, Clarence McNulty, 1111 West Court Street, yard foreman, see all the men in the yards and around the Buick plant and live wire, is much interested in Newberry and asked for 2000 circulars which I sent him, F. J. Tuttle, 516 Haskell Street will also help.

A. H. Lee Oxford Mich. Trav. Salesman and R. G. Emerson, 1001 9th Street Bay City both took circulars and will work. E. F. Rochler Trav. man 213 Tecumseh Ave. Detroit took circulars, is old friend of Newberry's and is working for him. F. A. Bosworth Morrice, Mich. is also working.

A. W. Hurdler556 Maple Street, Battle Creek, Engineer of the G. T. is strong for Newberry and I fixed him up with circulars. Said he could do us a lot of good.

TRAVERSE CITY.

Large meeting and everyone present declared themselves for Newberry.

MANISTEE.

Good meeting. Local President asked members for indorsement of Newberry after I finished talking and it carried every man voting yes. The following took circulars and agreed to work. Thos. Scott, 83 Magill St., Richard Hollaster, Filer City, J. R. Hinds, 256 1st Ave., exnavy man, Aug. Boestal, 280 4th St., Eli Tremblay, 1119 McKee, Arthur Premeau, 262 5th St., Ole Hansen, 279 Third St., Jos. Linder, 24 Webster Ct. Hans Henson, 32 McGill, A. H. Thurman, Northern Hotel (good working hard) C. J. Stev, 143 Wash.

LUDINGTON.

There are some Democrats in the freight shed at Ludington and some of them are for Ford, but we had a very good meeting with about 30 present and they all gave me a good hand after I finished talking, and I think that we did a lot of good, the following took circulars and agreed to work: Ed. Kesson, Herman Kenppel, John Cambe, John Telma, Geo. Hays, Gene Erilo, N. Tip, Wm. Butlinh, Wm. C. Brown, J. A. McDole, Henry Snyder, Aug. Pop, Wm. Lang, N. A. Anderson, 1300 8th St. Muskegon Heights Trav. man took circulars and will work. The following picked up on the trip agreed to distribute circulars and do all they could to help.

J. R. Wallace Fremont, Geo. E. Bord, Opr. White Cloud, W. F. Calkins, 203 E. 9th St. John Miller, 606 Bay St. Traverse City, Frani Holmes, Baldwin, and Frank Upgraph Baldwin.

A. K. Moore.

The Government then offered in evidence the exhibit which the defendants had marked Defendants' Exhibit No. 56-m, which was admitted and read in evidence as follows:

DEFENDANTS' EXHIBIT NO. 56-m.

August 22, AM 8:13
Detroit, Mich.

Lieut. Commander Truman H. Newberry,
280 Broadway,
New York, N. Y.

Everything going fine Detroit Journal prints story about Lieutenant Governor Dickinson's statement nothing prejudicial Grand Rapids Herald has another editorial at-

tacking us today and will probably continue along same line fine attitude for Senator Smith's paper to take will not do any serious damage.

Paul.

JAMES W. HELME, sworn in his own behalf, testified as follows:

My name is James W. Helme. I was born in the City of Adrian sixty years ago; have lived all my life on a farm *inside* the city limits. My occupation is farmer, editor and lawyer. I was admitted to the bar in 1881; I was elected Circuit Court Commissioner of Lenawee County in '82, served for two years. I was again elected Circuit Court Commissioner of Lenawee County in 1890, served for two years. I served seven years as City Attorney of Adrian, from '84 to '91. I was assistant prosecuting attorney of Lenawee County for two years, 1893 and '94. I was elected State Senator in 1898 from the district comprising the counties of Lenawee and Monroe, and served two years, in '99 and 1900. I was elected as a Democrat to all these offices. I was reelected State Senator in 1900 and served two years, 1901 and 1902, and was the only Democrat in that Senate. I was candidate for the Democratic nomination for Governor in 1902, and was defeated on the fourth ballot in convention by forty votes.

In April, 1911, I was appointed Deputy Dairy and Food Commissioner by Governor Osborn, served until January, 1913, nearly two years. In November, 1912, I ran for Lieutenant Governor on the Democratic ticket with Governor Ferris and was defeated.

In January, 1913, I was appointed Dairy and Food Commissioner by Governor Ferris for two years; in January, 1915, I was re-appointed by Governor Ferris and my term expired in January, 1917. I am still connected with the State Dairy and Food Department.

In 1901 I founded the Michigan Patron, a Grange farm organ and have edited it personally since 1903.

Coming down to the campaign of 1918 for Senator, about June 15th, Mr. W. J. Micket, of Grand Rapids, came to my office in Adrian, and on a mission as he said, from the Grand Rapids Democrats. Mr. Micket I will explain, I had appointed him when I was Dairy and Food Commissioner, I had to appoint various local inspectors, and had appointed him as local food inspector for Grand Rapids and the district adjoining it. I will state Mr. Micket had been active in Democratic politics in

this section during the entire time of the four years that he was in the Dairy and Food Department under me. Mr. Mickel stated to me, in my office in the afternoon, that he had come down there at the instance of some Grand Rapids Democrats to see if I would consent to the use of my name for Senator, and he stated that he could get a train back in fifteen minutes, and therefore he wanted my answer at once. I told him that it was a matter I wouldn't care to decide in fifteen minutes, and he better catch his train and go back, and I would write to him my conclusion. In a few days, a day or two I should think, I wrote Mr. Mickel a letter. In a few days Mr. Mickel came down again, I should judge it was about the 23rd of June, and we had quite an extended argument at that time on the matter. He wanted me to reconsider my declination. He told me at that time that he represented an organization of Western Michigan Democrats of Grand Rapids and Muskegon who wanted to see a real Democrat on the ballot for Senator. He told me that these Democrats would get out and circulate my petitions without trouble or expense to me; that they had agreed to assess themselves about $500 to take care of my expenses during the campaign; that I ought to give the Democratic masses a chance to vote for a real Democrat. He said that in case of Ford's nomination on the Republican ballot and me on the Democrat, I would have a fair chance to be elected by disgruntled Newberry and Osborn supporters. He said in case of Ford's nomination on both tickets the people in Michigan would be deprived of any choice in the November election and he said I ought to run, to throw a monkey wrench in the Democratic machine on account of their treatment of me when I was reappointed Dairy and Food Commissioner by Governor Osborn. He said it would be a great advertisement for me to run against Ford even if I lost and that I owed it to my Democrat friends in Western Michigan to let my name go on the ballot, there was no other Democrat available to run against Ford; and at no time in all my interviews with Mr. Mickel did he ever intimate to me or say to me that he was in the service of the Newberry Committee, but always claimed that he was representing the Grand Rapids Democrats, and mentioned the names of George R. Perry, former Democrat mayor of Grand Rapids, R. V. McArthur, chairman of the Democratic County Committee; W. D. Weston, of the Grand Rapids Chronicle. He is editor of the Grand Rapids Chronicle, I think that is the paper. I don't know as I ever saw it. He said that they had assessed themselves about $500 to take care of expenses, that Mr. Perry headed the

list. I told Mr. Micke1 that there was neither honor nor glory nor money in making a hopeless fight, and I had got all the advertising that any man could desire, and while I was anxious to render public service to the people of the state and my party, my financial condition was such that I owed a great deal to my family to stay home and attend to my private affairs and earn money enough to pay my debts; that I had determined some years ago never again to be a candidate for public office at any election. I further told him as to throwing monkey wrenches, I had been doing that all my life and every time I did it, I got into a fierce fight which wasted my time and energy and raised up a new group of enemies who had their hatchets out for me on every occasion, and unless I could see a fair chance for my election, which was the only way to help me financially; I felt that my duty to my family demanded I should not again be a candidate for public office. However, Mr. Micke1 wanted me to think the matter over, not decide hastily on the matter, and he went away without any decision. I told him I would write him in a few days. In a few days I did write him, and that is the letter that has been introduced by the Government. The date should be June 27th and not July 27th, because July 27th was the day for filing petitions, and I certainly wasn't writing letters of declination on that day. About July 2nd or 3rd, within a day or two of that time, he came down again, and we had the same arguments over again, and I told him I would write him what the situation was, or, I told him I would write him; that I would think the matter over again and would write him my decision, and I think I told him at that time I would like to investigate the situation in Detroit. I hadn't been over there and I wanted to see just what the situation was between the anti-machine Democrats over there and the Ford people, and I went over there, and July 6th, I wrote him a letter, in which I stated that I had just got back from Detroit and some of my friends were devoting the afternoon to looking over the situation which was decidedly mixed, and they would write or wire me Sunday what the situation was, and I would let him know Monday or Tuesday my final decision in the matter. That is Government's Exhibit 59-a. On July 8th I received a telegram from Grand Rapids. It is not in evidence (Reading) "Grand Rapids, Michigan, 10:50 a. m. July 8th, 1918. (Def. Ex. 59) James W. Helme, Adrian, Michigan. Have talked with many leaders; unanimous in asking you to stand. George R. Perry; R. V. McArthur."

I will explain, previously, that Mr. Perry was a Democrat and

Mayor of Grand Rapids for a great many years and was a personal friend of mine. Mr. McArthur I don't know personally, but he was a leading Democrat here and Chairman of the Democratic County Committee, and ran for Sheriff. On July 10th, that was two days after I received this telegram, I might say that I got to thinking the matter all over and I wanted to run all the time, any more than I couldn't see my way clear personally to do so. I thought I owed the public a duty in a good many ways to do the running, but I couldn't see my way clear. The next morning or the next day rather, I got to thinking it over, and as long as it was not going to embarrass the Food Department any, I finally concluded I would run. So I dropped a letter, which is again a misdated letter, I don't know how, but this letter that the Government has got in is May—I think it is dated May 12th, I think I noticed it and it puzzled me for a while. The letter should be July 12th. It said, "My dear Mickel: After consulting with some of my other friends I have concluded I will make no objection to going ahead with the matter. I am afraid however that you will not have the necessary time. I leave in the morning for Nashville to speak out in the county and I will be home Sunday. I looked up my records and found I spoke at Nashville on the 13th of July, and consequently my reference to that date, and that is the only time I spoke there that year, and it fixed my theory that that was the 12th of July. The next thing that happened, I didn't hear anything from that letter, and one Sunday morning Mr. Mickel appeared at my farm, I think that was July 21st, the week before the time ended for filing petitions—I will not be certain about that Sunday, it might have been the 14th, but I am very much inclined to think it was the 21st, but it was one Sunday morning anyway; he came there and he wanted to know what I had decided in the matter. I says, "I wrote you several days ago." He says, "I have been away from home a week or ten days and I haven't got my mail." I told him what I had written him, and I says to him, "Now, here, I don't think you have got any time to get those petitions, it is a big job, and it is too short a time." He said, he didn't know whether they could or not, but he said they had quite a hustling bunch of Democrats over to Grand Rapids and they might possibly attempt it; and I finally says to him, "Now, if the Grand Rapids Democrats want to circulate my petitions and file them, if they get enough so as to file them, I will not ask the Secretary of State to take my name off the ballot." And at that time he spoke something about the expenses of a campaign, and he said he thought they would raise enough to take care of the expenses.

I might say that the next week I met Mr. Mickel—that was at the time Mr. Frensdorf testified to—and I asked him how it was that they got those petitions so quick, and he said that they had one of the liveliest bunches of Democrats in Grand Rapids that there was in the state, and that they had hustled. I never knew, never had any knowledge or suspicion, for that matter, that my petitions were being circulated by Republicans until I heard the evidence in this Court Room, and I never knew anything about any irregularities in the petitions until I heard the evidence in this Court room. I wrote him a letter, which has been marked Government Exhibit 59-d. A few days after that I wrote Mr. Mickel the letter that is now in evidence, Government Exhibit 59-e. After that statement was made, I have no recollection of again hearing from Mr. Mickel or again seeing him during the campaign or for a year thereafter. I certainly had no criminal intent. I will state that during the campaign I wrote several editorials in my paper here, if they would be admissible under the Court's ruling, I would be glad to submit them to the Government counsel there, if they wish to see them. I think that is about all I can remember just now.

CROSS-EXAMINATION BY MR. DAILEY:

The only people I talked to prior to the time I announced myself as a candidate were Mr. Odell and Mr. Mickel. Mr. Mickel told me in the conversation which occurred in June that there were a number of Grand Rapids Democrats who were going to be back of my candidacy, and he named Mr. Perry and Mr. McArthur. I did not write to them or telegraph or telephone or communicate with them in any way. I know now that the telegram purporting to come from these gentlemen was never sent by them; that neither of them ever signed a telegram or authorized one to be sent to me. At the time Mr. Mickel came that Sunday he asked me if I had received this telegram from Mr. Perry and Mr. McArthur, and I told him I had. Mr. Mickel told me voluntarily that Mr. Perry was going to head the contribution list which was intended to back my candidacy; that they had assessed themselves and figured they would raise about $500. I did not write either Mr. Perry or McArthur after Mr. Mickel had told me that they would put up this money. I had nothing to do with the circulation of the Helme petitions; never saw one until they were brought into this court room. I did not authorize the defendant Chilson to carry my petitions to Lansing and place them in the hands of Frank M. Bovee. I never saw Mr. Chilson during the campaign. I did not authorize

the defendant Bigger to circulate my petitions, or to go to Kalamazoo and employ men to carry my petitions. I did not furnish any man with a cent to circulate my petitions. The only man I ever gave any authority to circulate my petitions was Mr. Mickel. I did not give him authority; I said if they would circulate them I would not decline. I never asked Mickel to circulate petitions for me. Mr. Mickel never mentioned the names of Paul King or Charley Floyd to me. I had nothing to do with circulating the three Helme primary nominating petitions shown me from the office of the Secretary of State, and purporting to come from Adrian, and did not know any petitions were circulated there. To the best of my knowledge and belief no Helme petitions were circulated there. Charles L. Robertson, whose name appears upon one of the three petitions has his office with me. I know his signature and the signature shown me is not his handwriting.

FRANCIS F. McGINNIS, being sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. NICHOLS:

I have resided at Bay City, Michigan, about three years. My business is life insurance principally. I am president of the Agricultural Life Insurance Company, which I organized in 1914. I am acquainted with Richard H. Fletcher of Bay City and have had business relations with him during the last four years. He is one of my local agents of life insurance business at Bay City. I have had quite a good deal of business with him during that time in the way of receiving applications and contracts and checks and all that. I have seen him write and I am well acquainted with his signature and his handwriting. I made a close examination of Gov. Ex. 124, Gov. Ex. 125, and Gov. Ex. 130 and 131, being the so-called Helme petitions, previous to coming upon the stand, as to the handwriting. No name and no part of the handwriting upon those petitions is in my judgment that of Richard H. Fletcher.

CROSS-EXAMINATION BY MR. EICHHORN:

I have been engaged in the insurance business twenty-two years and six months. I came off the farm when I was seventeen years old and went into business. I have had occasion to make a special study of handwriting in my insurance business, carefully examine signatures and compare forgeries, and so on. I have never had occasion to compare, investigate and compare handwritings in connection with litigated matter. I have never

been in court before on anything of that nature. The examinations that I have made and the experience that I have had are such as would occur in connection with the insurance business. I have conducted hearings in my life insurance business on signatures in cases of loss where claims were made and in cases of applications that were filed for insurance. Besides the Agricultural Life Insurance Company, I am also connected with other insurance companies, fire insurance companies, live stock insurance companies, automobile insurance companies and health and accident insurance companies. I have a number of other agents besides Mr. Fletcher and have had during the twenty-two years. Mr. Fletcher has been an agent of my company during the past three years, and in that time he has submitted a number of applications for insurance; I cannot tell you how many, but he has been a regular agent of ours. He has a regular fire insurance agency and he has a life insurance connection with us. The writing that I have seen him do has been in his contract, in signing his contracts with our company, and on drafts. We pay him by check, any commissions. I think he has an original triplicate contract and has supplementary agreements to it. I saw him sign his name to the originals and to the supplemental agreements. I think there were the same number of supplemental contracts attached to each original. I have seen him sign his name on applications. None of the checks and drafts that were issued to him and indorsed by him ever came in question. I always check over his endorsements upon those checks; but I had no specific reason to examine his signature minutely or in detail. His signature was never called in question to my knowledge before. I have noticed something peculiar in the formation of the two "e's" in the name "Fletcher." They are very much like an "i." I have also noticed that the capital "F" beginning the name "Fletcher" is peculiar in a way. I cannot see that the "F" at the beginning of the name "Fletcher" on Gov. Ex. 125, line 10 bears any resemblance to the "F" that Mr. Fletcher makes in writing his name. I think they are entirely dissimilar. There is no part of the name "Fletcher" that bears any resemblance at all to the genuine signature of Mr. Fletcher to my knowledge. None of the letters resembles the letters as he makes them in his genuine signature. I would say that the writing in the body of the telegram marked Gov. Ex. 99 is Mr. Fletcher's writing. I would think it was. I have compared the name "King" written in line 20 on Gov. Ex. 124 under the column "Street and Number" with the name "King" in the telegram. They are not similar. I would not say that Mr.

Fletcher wrote the name "King" on Ex. 124, because the "K" is not the same at all. The name King on Line 25 of Gov. Ex. 125 in my opinion is not the writing of Mr. Fletcher, and the reason is the "K" is not the same as either one of the other two. I do not base my opinion that it is not his upon that entirely; they are not similar. I have never made a study and analysis of hand writing with a view to qualifying myself to detect spurious signatures and writing generally; no more than came under my experience in business. I think I will go along with anybody on signatures; I have had twenty-two years at it. I feel that I am an expert upon the subject to a certain extent; I would not expect to put my shingle out that way.

WILLIAM S. FOTHERINGHAM, being sworn on behalf of the Defendants, testified as follows:

DIRECT EXAMINATION BY MR. NICHOLS:

I have lived in Bay City six years. Previous to that I resided in Clinton County. My business through life has been banking, and I am in the banking business now. I am cashier of the Farmers State Savings Bank and have occupied that position since its organization nearly five years ago. Richard H. Fletcher of Bay City is one of the customers of that bank and a stockholder in it. He does part of his business through our bank. I have known Mr. Fletcher fifteen to eighteen years. I have seen him write and am well acquainted with his handwriting and his signature. I have made an examination of these exhibits, of Government's Exhibits 124, 125, 130 and 131, called the Helme petitions, and have given them enough observation and care and scrutiny so I can state as to whether or not any of the handwriting upon any of these petitions is, in my judgment, in the handwriting of Richard H. Fletcher of Bay City. In my opinion, it is not Mr. Fletcher's writing. I come to that conclusion from my familiarity and knowledge of his writing.

CROSS-EXAMINATION BY MR. EICHHORN:

At the time I examined these exhibits, I made no comparison of the writing on the exhibits with any other writing. The examination that I made of these exhibits that are now before me was made in reference to my recollection of Mr. Fletcher's signature. I had Mr. Fletcher's genuine signature when I examined these exhibits. I had it among the papers, but I did not lay the two side by side to compare them. I think I made a critical comparison of handwriting with a view to determining its genuineness or spuriousness every day. Aside from such mat-

ters as arise in my every day business, I have not had occasion to make analytical and critical examination and comparison of handwritings. In the banking business when any matters comes, I have to look at the signature and satisfy myself that it is all right. Defendants' Exhibit 41 is the signature card of Mr. Fletcher which we had in our bank. I have looked at the name of Fletcher on line 10 of Government's Exhibit 125 and at the genuine name of Mr. Fletcher on the signature card from my bank. The one on line 10 of the exhibit is not Mr. Richard Fletcher's signature. There are not many marks of similarity. The stroke over the "F" would be the most that I could see—the top of the capital "F." I cannot see any other similarities between them. The cross-bar of the "F" is not similar. I would consider them entirely dis-similar. I would not consider the "l" following the "F" similar. It is barely possible you could find a similarity between the "ch" and the manner in which those letters are joined, but I do not think it. I can find a dis-similarity between them. I do not know just how to go to work to describe the difference. The top of the "c" on Mr. Fletcher's own signature turns down, where the "c" in this Exhibit 125 does not; it runs up there to a point and comes back down again; the top goes all the way down almost to the signature line, and back up again. I would not consider there was any similarity between the final "r" in the two names. The two names were certainly not written by the same hand, in my opinion. The name "R. H. Fletcher" on Government's Exhibit 127-F is the genuine signature of Mr. Fletcher. Comparing it with the signature card from our bank, I think the "ch" is very alike in those two names. They are not entirely alike. Comparing Exhibit 127-F with the name "Fletcher" on line 10 of Exhibit 125, there is a difference in them. I do not know just how to go to work to explain the difference. There is a lot of difference between the two. I would not consider there is any part of the name "Fletcher" that was alike as being written by the same person. The top of the "l" is not alike; that differs. From my experience of watching signatures, I would not say there was any parts of those two signatures that are at all alike. The writing in that telegram, Government's Exhibit No. 99, above the signature is R. H. Fletcher's writing. I feel quite certain of that. The name "King" in the name "P. H. King" in the telegram and the name "King" written on line 20 of Government's Exhibit 124 were not, in my opinion, written by the same person. There may possibly be a similarity between them, but that was not written by the same person. From my experience again, I would say

there is no similarity. They are all alike, to some extent, but not enough so that they were written by the same person. The final "g" is the only thing I can see any similarity in. It goes down on one stroke and does not go back up again. I would not consider there is anything to the angle of the stroke. I do not think the name "King" written on line 25 of Government's Exhibit 125 and the "King" written in Government's Exhibit 124 were written by the same hand. I do not think that the "King" on line 25 in Exhibit 125 was written by the same hand that wrote the word "King" in the telegram Exhibit 99. There is possibly some similarity between them, but I do not think there is. I do not claim to be an expert in the matter of handwriting.

RE-DIRECT EXAMINATION BY MR. NICHOLS:

I would not say there was any similarity between the "Fletcher" on Government's Exhibit 126, being one of the register sheets of the Morton Hotel, the admitted signature of R. H. Fletcher, and the "Fletcher" on line 10 of Government's Exhibit 124. The signature to the telegram, Government's Exhibit No. 99, is Mr. Fletcher's signature.

C. L. FOX, being sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. NICHOLS:

I reside at Bay City. I am County Clerk of Bay County. I know Richard H. Fletcher. I also know a man by the name of William Lynch. I recall a Road Commission meeting in 1918 at my office when Mr. Lynch, Mr. Fletcher and some other gentlemen were present.

Q. Do you recall a conversation that took place there between Mr. Lynch and Mr. Fletcher in regard to Lynch bringing back a majority from his township or they would not get any stone roads or road or something of that kind?

MR. DAILEY: The Government objects because it is not in rebuttal of any testimony offered by the Government.

THE COURT: You will have to identify the conversation in some way, otherwise there is no foundation laid for it.

THE WITNESS (continuing): I was present at a meeting of the Road Commission at which Mr. Lynch and Mr. Fletcher were present in the fall of 1918. There was only one meeting of that character. At that meeting, there was a talk or discussion between Mr. Lynch and Mr. Fletcher in regard to Mr. Morton. Nothing was said in relation to Mr. Newberry.

Mr. Robins, another member of the Commission was there.

MR. DAILEY: The record says that this conversation that he talked about was in the latter part of October and that there was no one else present, and he said that in answer to Mr. Littleton's question on cross-examination.

THE COURT: Unless something further is shown, the whole matter may go out. There is no foundation laid for it all so far; there was not any foundation laid at the time of the cross-examination.

IRA W. JAYNE, being sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. MURFIN:

I have lived in Detroit about ten years. I am Judge of the Circuit Court of Wayne County, the Third Judicial Circuit. I am in my second year. Prior to my election to the bench, I was superintendent of the City Municipal Recreation Commission, and before that I was the attorney for the various child caring agencies in the City. I have known the respondent, Milton Oakman, for about eight years. I was a candidate for the position I now hold in the primaries of 1918. On the evening of the primaries, about 9 o'clock, I took Mrs. Jayne and a woman friend of hers down to the office of the County Clerk in the County Building to listen to the receipt and announcement of the returns from the county. At that time Milton Oakman was County Clerk. Mrs. Jayne and I and our companion reached the County Clerk's office about nine o'clock that night. Milton Oakman was not there when we arrived. He came in between ten and eleven; my best judgment is that it was between half past ten and eleven o'clock. After he got there, he remained with me and my family. I introduced him to Mrs. Jayne and this woman. There were a number in there listening to the returns and he invited us into his private office which adjoins the main office of the clerk. We stayed there that night until between half past eleven and twelve, when I took Mrs. Jayne and her friend down to the front of the building and put them in a cab, then I came back and stayed there until about half past four or five o'clock the next morning. During that period Milton Oakman was continuously in his office, or in the office of the County Clerk.

TOBIAS COSKEY, being sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. MURFIN:

I reside in Detroit. I am a lawyer. At the August primaries, held August 27, 1918, I served on the Primary Board in the 13th District of the First Ward. The booth of that district is on East Grand Boulevard between John R. and Brush, on the south side of the street, about three miles from the County Building. The booth closed at ten o'clock that night. I saw the respondent, Milton Oakman, in the booth that night. It was not less than fifteen minutes nor more than a half hour after the booth closed before I saw him. He come in and asked a question or two and walked out again.

CROSS-EXAMINATION BY MR. DAILEY:

I assisted as one of the clerks of the Board; I held down any of the jobs there. I counted the votes. I think we closed between 12:30 and one in the morning. We got our work cleaned up about that time. Mr. Oakman came out to the booth between 10:15 and 10:30 in the evening. They quit voting about ten o'clock that evening. I did not talk with Mr. Oakman when he was there. He was by himself. He was not in the room, I suppose, but a minute or two, just asked a few questions concerning his own vote and walked out again. We were then counting the votes. He did not direct his question to any particular person.

GERALD W. GROAT, being sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. MURFIN:

I have lived in Detroit for some years. During the primary campaign of 1918 I was in the navy. I was working for the Government on primary day. I was in the County Building in the City of Detroit between nine and ten o'clock primary day. There were a number of people there that I knew, in the corridor. At present I am an Assistant Prosecuting Attorney. H. J. Montgomery, generally known to the boys as Hank Montgomery, is connected with the Prosecutor's office. I saw Mr. Monigomery the night of the primary election, between 9:00 and 10:00 o'clock, in the corridor of the County Building. He came in the County Building with two men, being assisted through the corridor. He was intoxicated.

HENRY C. WOBROCK, being sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. MURFIN:

I have lived in Detroit since I was 12 or 13 years old; I was born in Wayne County. My place of business in Detroit is right across the corner from the County Building. I conduct a hotel there. Before the state went dry there was a bar connected with the hotel. I know Hank Montgomery of Detroit, formerly a newspaper man and now connected with the Prosecutor's office. I was in my place of business on primary day from three o'clock in the afternoon until the next morning. I did not leave there at all during that time. I was there continually. I saw Hank Montgomery in my place along about 7:00 or 8:00 o'clock in the evening. He stayed about an hour. He showed evidence of having been drinking to excess that day. He did not come back again that evening. Milton Oakman was not with him. Mr. Oakman was not in my place of business at any time that evening.

CROSS EXAMINATION BY MR. DAILEY:

I saw Mr. Montgomery at my hotel on many occasions, and Milton Oakman also, and Art Hathaway. I would not say that I saw those three men there together a number of times. They were not in there together a number of times during 1918. I cannot recall a meeting at any time between the three. I cannot refresh my memory that they were together. I saw Art Hathaway and Mr. Montgomery down there together quite frequently; they were together quite a good deal, but I cannot recall having seen Mr. Oakman and Mr. Hathaway there together, because they never associated together. They might have met there. Returns were being received on the second floor of my hotel that night. That evening a number of men were up in this room going in and out where the returns were being brought in. I was usually in my private room, that is, the front room up on the second floor. There is only a telephone space in there where the returns came in; they just usually came to see the returns. Men and boys were sitting around in the room; we were all acquaintances. That day I was not in and out; I was usually inside; it kept me inside. I remained in that one room myself practically all the time. I could not say how many men came in there and out of there during the evening. There was a larger number of them.

GEORGE C. SAYERS, being sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. MURFIN:

I have lived in Detroit since I started to practice law. At present I am a member of the Prosecuting Attorney's staff of Wayne County. I know Hank Montgomery. He is connected with the Prosecutor's office; he is divorce proctor. We occupy the same private office. That same situation did not exist in the summer of 1918. He was then connected with the Prosecutor's office, and so was I. I was with Hank Montgomery on primary day. On that day Mr. Jasnowski, the Prosecuting Attorney, was at a summer resort outside of Port Huron. I first met Montgomery around about nine o'clock in the morning of that day and was with him practically continuously all day. I saw him about nine o'clock in the same evening. He was in an office of the county building; he was sleeping. He stayed in that office asleep until the next morning. I was in and out and around there all night. I had to pass him every time I went into the office to use the telephone. I went in the office about 9:30 or 10:00 o'clock and he was in there then. I was present at a birthday party given to Johnnie Smith one night at Schiller Hall. The party was promoted by some members of the County Clerk's staff, Mr. Montgomery and myself. I saw Mr. Montgomery in the office the afternoon of the day before that party. It was proposed to make a birthday present, and I saw him the afternoon of the day before the party in connection with this present. I saw him the afternoon of the day of the party at Emil Martie's who conducted a saloon in Detroit. I saw him at the Schiller Hall party. He was selected to make the presentation speech on that occasion. I would say that he was drunk that evening. Milton Oakman was present at the Schiller Hall party for about a half an hour. I saw him there. He came in after the watch had been presented to Johnnie Smith. I did not see him until he reached the balcony where I was sitting. I saw him when he left; he stopped at our table. Besides myself, my wife, Mrs. Smith and Mr. Smith and another couple were at our table. Mr. Oakman came in about eleven o'clock. Hank Montgomery was then about five tables from me. He and Mr. Oakman did not talk to each other to my knowledge. Mr. Oakman had a Tuxedo suit on. I did not go out with him when he left; I stayed at the table.

CROSS-EXAMINATION BY MR. EICHHORN:

I parted company with Mr. Montgomery on primary day around about between six and seven o'clock. I saw him again

around about 9:30. I do not know where he went in that interval. I do not know where he had been. On the night of the Schiller Hall party my wife and I and some other persons were occupying one of the tables which were set in the balcony of the hall. I had been at the table possibly an hour and a half, or an hour, before I saw Milton Oakman. The entrance to the hall is on the balcony; then you [illegible] from the balcony down to the floor. It is an outside stairway you come in. You might enter the floor that way. There is a double stairway. The main entrance comes from the outside and goes up to the balcony, or you can make a turn and go to the hall below. Persons going to the hall by the main entrance can go to the hall itself or to the balcony, either way. I do not know whether there is also an entrance to the balcony from the floor of the hall. The entrance from the outside is the only entrance I saw. I reached the balcony that evening from the outside entrance through the hall up to the balcony. The same hall that the stairs to the balcony leads from goes to the main floor of the hall. I do not think it goes to the main floor of the hall before going to the balcony; I do not remember that. I do not know whether or not Mr. Oakman came to the balcony, whether he had been on the main floor of the hall. I do not know how long he had been at the hall when I first saw him in the balcony, only from what he told me himself. He remained in the balcony with us about 20 or 30 minutes. I do not know where he went after he left the balcony. I did not see him again that evening and I do not know with whom he talked or whom he saw.

REDIRECT EXAMINATION BY MR. MURFIN:

Hank Montgomery did not leave his table at all after Oakman left or while Oakman was there, not to my knowledge.

RECROSS EXAMINATION BY MR. EICHHORN:

I say Mr. Montgomery did not leave his table to my knowledge. I know I did not see him. To the best of my knowledge, he did not leave his table, but I could not swear positively whether he did or not.

ALICE M. SAYERS, being sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. MURFIN:

I am the wife of George Sayers, the Assistant Prosecuting Attorney in Detroit. I have known Hank Montgomery about four years. I was at a birthday party given to Johnny Smith in the

spring of 1918 at Schiller Hall, with my husband. I saw H
Montgomery at that party; he was drunk.

I saw Milton Oakman at that party. He came in about el
o'clock and came over to our table. Mr. and Mrs. Smith
Mr. Sayers and myself were at our table. Mr. Oakman
down at our table just for a short time. While Mr. Oak
was visiting with us at our table, I saw Hank Montgomery.
was about six tables from us. He had no conversation
Mr. Oakman on that occasion that I know of. Mr. Oak
was not at Montgomery's table, nor was Montgomery at
table. I believe Mr. Oakman spoke to Mr. Montgomery w
he came in, saying "How do you do?" There was no tal
conversation between them on that occasion. I saw Mr.
man leave the hall. We were in the balcony and he walked
the door going downstairs. When he walked out, Montgo
was still at the table. I saw no more of Mr. Oakman that ni

MARIE SMITH, being sworn as a witness on behalf of
defendant, testified as follows:

I attended the birthday party that some of Johnny's frie
gave him in the spring of 1918 at Schiller Hall. I got th
about 9:30. Mr. Oakman was not there then. Hank Mo
gomery was; he was drunk. I should judge Mr. Oakman
rived about an hour or an hour and a half after I got there,
that he stayed about half an hour or so. He was in full dr
Nobody else was full dressed at this party. Mr. Oakman
with me all the time he was there. I was on the balcony w
my husband and my baby and Mr. and Mrs. Sayers. Mr. O
man was to dinner before he came to the party. He did not
down at our table. When he came in, he stood and talked
took my baby and he held the baby, and I asked him to sit do
and he says, "No, I am very much in a hurry." He sat do
anyway, for a few moments, and he jumped right up and
says, "I am in a hurry; I will have to leave." I saw him l
the hall. While he was at our table, Hank Montgomery
about six or seven tables away from us. Hank did not co
over and visit with Mr. Oakman, nor did Mr. Oakman go o
and visit with Hank. They had no conversation that I kn
of, or heard of, on that evening.

The following witnesses were called and testified that
general reputation for honesty, integrity and upright citizens
of the respective defendants regarding whom they gave th
testimony, in the communities in which they lived was go
for the defendant Frederick Cody, Thomas W. Churchill, of

New York Bar, formerly, and for three terms, President of the Board of Education of that City, and William A. Orr, City Editor of the New York Tribune, formerly secretary to Governor Whitman, and later Superintendent of Prisons; for the defendant Paul H. King, Arthur H. Tuttle, of Detroit, now and for the past seven years United States District Judge for the Eastern District of Michigan, formerly United States Attorney, and before then the prosecuting attorney of Ingham County, Michigan, Clyde I. Webster, of Detroit, Judge of the Wayne County Circuit Court, also a former United States Attorney, and the Rev. Chester B. Emerson, clergyman of the North Congregational Church of Detroit; for the defendant Charles A. Floyd, Circuit Judge and former prosecuting attorney John S. McDonald, Clay H. Hollister, President of the Old National Bank, both of Detroit, and Cornelius De Pree, of Holland, Michigan, Secretary-Treasurer and General Manager of the H. De Pree Chemical Company; for the defendant William J. Mickel, George M. Reed, Register of Deeds of Kent County, William J. Emery, district clerk in Mr. Reed's office, and Cecil A. Ambrose, of the Young & Chaffee Furniture Company; for the defendant Allan A. Templeton, Judge Alexis C. Angell, Judge Tuttle's predecessor on the Federal bench, and for forty years a practicing lawyer, John Ballantyne, President of the Merchants' National Bank, and John Trix, a manufacturer and former President of the Detroit Board of Commerce; for the defendant Roger M. Andrews, John J. O'Hara, of Menominee, a practicing attorney of that place, formerly city and prosecuting attorney there, George W. McCormick, Manager of the Beet Sugar Manufacturing Company and William Webb Harman, banker, of the same place; for the defendant Milton Oakman, Ira W. Jayne, Judge of the Wayne County Circuit Court, formerly superintendent of the Municipal Recreation Commission, and before that attorney for various child caring agencies in Detroit, and Edwin G. Pipp, of Detroit, a former editor of the "Dearborn Independent", sometimes called the "Ford International Weekly", and previously an editor of the "Detroit News"; for the defendant Richard H. Fletcher, Samuel G. Houghton of the Circuit Court, James E. Duffy, attorney at law, of Bay City and James E. Davison, of the same place, shipbuilder and banker; for the defendant Hannibal A. Hopkins, Probate Judge Hugh H. Hart, of St. Clair, Russ H. Jenks, President of the Commercial Savings Bank and Franklin Moore, secretary and treasurer of the Crystal Salt Company, of the same place; for the defendant Elbert V. Chilson, Frank T. Newton, Sheriff of Ypsilanti County and for-

merly State Senator, Burton F. Brown, and G. W. Millen, vice president of the Farmers' Bank of Ann Arbor County; for the defendant John S. Newberry, Frederick T. Moran, head of the Peninsular Stove Company, and Benjamin S. Warren and John T. Nichols, lawyers, all of Detroit; for the defendant Harry O. Turner, Henry B. Behrendt, United States Marshall for the Eastern District of Michigan, Mylo D. Campbell, President of the National Milk Producing Association, of the same district, and Will A. Waite; for the defendant B. Frank Emery, Hoyt Woodman and Arthur S. Nichols, school principal, both of Lansing, and for the defendant George S. Ladd, Ernest G. Barnes, postmaster and merchant at Stringbridge Massachusetts. As to the defendant, Paul H. King, Judges Tuttle and Webster and Mr. Emerson testified that Mr. King's reputation for truth and veracity was good, and that they would believe him under oath.

The Government waived the cross-examination of Mr. King on the statement by his counsel that Mr. King's health was such that he could not then, or for some indefinite time, be cross-examined.

REBUTTAL.

A. G. WILSON, being sworn as a witness on behalf of the Government, in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I have been a resident of Hillsdale something better than twelve years. I am proprietor of the Hillsdale County Abstract Office, and have been engaged in that business during all the time that I have been a resident of Hillsdale. I have known Frank P. Robards of Hillsdale for practically the entire time of my residence in Hillsdale, better than twelve years. My acquaintance with him for the first probably six years was rather casual, but for the last six years intimate. I have a general acquaintance with the people of Hillsdale. I believe I know the general reputation of Frank P. Robards in Hillsdale for truth and varacity. It is good. He is certainly a man whom you would believe under oath.

JOHN HAYES, being sworn as a witness on behalf of the Government, in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. EICHHORN:

I have been a resident of Hillsdale about four years. I am a contractor. I have known Frank P. Robards of Hillsdale ever since I have been a resident of the town. I have been acquainted

with him socially quite a little bit. I have stayed at the same hotel with him, ate with him, and met him socially. I have a pretty good acquaintance with the people of Hillsdale. I know the general reputation of Frank P. Robards in Hillsdale for truth and veracity. It is good. I would believe him on oath.

CHARLES N. HYDE, being sworn as a witness on behalf of the Government, in rebuttal, testified as follows.

DIRECT EXAMINATION BY MR. DAILEY:

I live in Rockford, Kent County, on a small farm. I have been supervisor of my township and held some village offices there. I was a member of the Grand Jury which returned the indictment in this case. During the progress of the Grand Jury, I remember that the defendant, George S. Ladd, appeared and testified.

Q. During the testimony of Mr. George S. Ladd before the Grand Jury, did he say that in one of the conversations he had with either Mr. King or Mr. Chilson during the time that he was making speeches for Mr. Newberry, or before he commenced to make speeches, that he was informed that his work would be more effective if he did not let it be known that he was acting for the Newberry Committee, and did he say that he was not advertised as speaking for Mr. Newberry, but was advertised as speaking on the subject of Good Roads, or on some other subject, and during the speeches he made that he brought in Mr. Newberry's name.

And did Mr. Ladd further say to the Grand Jury that when he went out over the state to speak that there were several places where they found that he intended to speak for Mr. Newberry and where they did not permit him to do so?

MR. MURFIN: If your Honor please, I object to the question as grossly improper, obviously leading and improper rebuttal. The witness Higbee has given the jury the benefit of what Mr. Ladd testified to at that time, and Mr. Ladd took the stand and told his recollection. Therefore, this is not rebuttal; it is simply cumulative, and therefore I object to the question in form and in substance.

THE COURT: The question should be leading in form. It is in proper form and it is proper in substance. You may answer.

MR. MURFIN: An exception.

A. Yes, sir; he made those statements.

WILLIAM ERNST, a witness heretofore sworn on behalf o
the Government, being recalled in rebuttal, testified as follow

DIRECT EXAMINATION BY MR. DAILEY:

I am the same William Ernst who testified previously in th
cause. I remember the witness George S. Ladd who appeare
before the Grand Jury.

Q. During the testimony of Mr. George Ladd before th
Grand Jury, did he say that in one of the conversations he ha
with either Mr. King or Mr. Chilson during the time that h
was making speeches for Mr. Newberry, or before he commence
to make speeches, that he was informed that his work would b
more effective if he did not let it be known that he was actin
for the Newberry Committee, and did he say that he was no
advertised as speaking for Mr. Newberry but was advertised a
speaking on the subject of good roads, or on some other subjec
and during the speeches he made that he brought in Mr. New
berry's name; and did Mr. Ladd further say to the Grand Jur
that when he went out over the State to speak that there wer
several places where they found that he intended to speak fo
Mr. Newberry and where they did not permit him to do so?

A. Yes, sir; he did.

CROSS-EXAMINATION BY MR. LITTLETON:

I remember Mr. Ladd on the stand before the Grand Jury.
do not know whether I remember him now. There were abou
three hundred men there and I do not know that I could pic
him out. I could not pick him out. I made no note of his test
mony any more than from memory. I made more note of hi
testimony than I did of the other three hundred men; I re
membered a little better. I have not refreshed my recollectio
with reference to what he said. Before I came on the stand thi
time Mr. Dailey just asked me that. Mr. Dailey never asked
of me. Somebody from Mr. Dailey's office asked me either yes
terday, or today I guess it was. When they asked me, I had n
notes to refer to, to see what Mr. Ladd had said, but I remem
bered what he had said. They asked me first what he did say
and I told them from memory, and I could tell him from mem
ory practically everything he said. I remember what som
of the other witnesses said before the Grand Jury. I mea
to say now that I have a present recollection out of the three hun
dred witnesses as to what Mr. Ladd said when he was befor
the Grand Jury. I know what he said, and I remember tha
what Mr. Dailey read me in that question he just asked me i

what Mr. Ladd said. I had no memorandum of it. I examined Mr. Souter's notes with reference to what Mr. Ladd said about two weeks ago. I remembered what Mr. Ladd said.

FRANK G. KANE, being called as a witness on behalf of the Government, in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I live in Chicago and am in the advertising business. I formerly lived in Detroit and at that time I was engaged in advertising for the Packard Motor Car Company. I have known Henry Montgomery about fourteen or fifteen years. I was a student with him at the University of Michigan. I think we were graduates of the same class, and then I was out a year, so I think that threw me a year behind Mr. Montgomery. Since then I have seen him off and on, sometimes at intervals of two or three years. I attended a birthday party for a man known as John Smith or Johnnie Smith in Detroit along somewhere near April of 1918 at Schiller Hall. I was at the same table that evening with Mr. Montgomery and his immediate party. That included his wife, Mr. Wilson, and a Mr. Millen. Mr. Montgomery seemed to have the party in charge. My best recollection is that he was around among the guests. He was back and forth, at the table and away continually. I saw him on numerous occasions that evening. I think Henry was sober. My best recollection is that he made the presentation speech of the watch to Mr. Smith.

CROSS-EXAMINATION BY MR. MURFIN:

I did not hear Mr. Sayers make a presentation speech, also I did not see Milt Oakman there that night. I was in the company of Hank Montgomery and did not see Milt Oakman.

BERNARD C. WILSON, being called as a witness on behalf of the Government, in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

My home is in Akron, Ohio. I am in the advertising agency business there with the Akron Advertising Agency Company. I have been in Akron close to two years. Immediately before that I lived in Detroit for a short time. I have been in the advertising business for about four years with the exception of a very few weeks that I put in Detroit just prior to going to Akron. I have known Henry Montgomery for, I should say, eight or nine years. I attended a party that was given for John Smith of

Detroit, and I presume it was the Schiller Hall party. I was seated at a table where Mr. Montgomery was some of the time. He was not at our table very much of the time; I know he was various places around the hall. I saw him on various occasions during the evening. I was seated with Mrs. Montgomery myself. I should say Mr. Montgomery was sober. At one time during the evening I had occasion to look up Mr. Montgomery, and I found him. To the best of my recollection, he was then talking to Mr. Oakman.

JOHN T. MILLEN, being sworn as a witness on behalf of the Government, in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. DAILEY:

I have lived in Detroit just about five years. I am the state representative for the DeFry Corporation of Chicago, Illinois, which is a moving picture corporation. I am acquainted with Henry Montgomery. I was in attendance at the birthday party given John Smith at Schiller Hall along about April of 1918. I was a guest at the same table that Mr. and Mrs. Henry Montgomery occupied. I saw Mr. Montgomery during the evening. He did not remain constantly at our table. He made the presentation speech of the watch to Mr. Smith that night. He was sober that evening. I know Mr. Milton Oakman by sight. I saw him at the party that evening. I remember of seeing, I think when Mr. Oakman came to the hall, of saying "Hello" to Mr. Montgomery or speaking to him. I remember seeing them greet one another as Mr. Oakman came to the hall. I did not watch to see whether there was any conversation, and I do not know.

CROSS-EXAMINATION BY MR. MURFIN:

I was a guest of Mr. Montgomery. There was several. I took Mr. and Mrs. Montgomery to the party and two or three ladies, I think. To the best of my memory, the ladies I took were Mrs. Grace Spencer and I think Miss Charlotte Tiznee; and that is all I remember besides Mrs. Montgomery. I think those ladies stayed with me throughout the evening. I should judge Mr. Milton Oakman came to that party around eleven o'clock, something like that. I do not remember whether, when he came there, he sat down with Mr. and Mrs. George Sayers and Mr. and Mrs. Jennie Smith. I believe he played with one of the babies at the table. I think he was in evening clothes. I do not know whether he was the only man at the party in eve-

ning clothes. I do not know if he was there over ten minutes. I just remember seeing Mr. Oakman coming in the hall. I saw him salute Hank Montgomery. That is all I saw about it. I did not see him go out again. I do not remember of seeing him sit down. I just remember the incident of his coming in the hall. All I saw was just "How do you do, Hank" and "How do you do Milt." I heard Hank make a speech. I did not see him drop the watch twice. I think he had the watch that he was going to present. I do not remember the episode of his dropping it twice and Mr. Sayers going out and taking the watch and resuming the speech himself. I do not say that that did not happen. I do not remember of that incident.

RE-DIRECT EXAMINATION BY MR. DAILEY:

I did not look to see whether or not Mr. Montgomery and Mr. Oakman carried on any conversation after I saw the greeting, and I do not know whether they did or not. I just saw them greet, and that is all I saw. I was right in front of the platform where Mr. Montgomery made the presentation speech right on the dance hall. I do not remember whether that watch was in a plush case at the time.

THE GOVERNMENT HERE RESTED, AND THE DEFENSE DID LIKEWISE.

THE COURT: There being nothing further on the part of any of the respondents, the proofs are closed. I take it there will be some motions to make, and applications.

MR. LITTLETON: If your Honor please, on behalf of each of the respondents, I renew the motion made at the end of the Government's case upon the grounds then stated, and upon the additional grounds, that a verdict of not guilty be directed by your Honor to be entered upon the record. I do not think it is necessary to state the ground any more fully than that.

THE COURT: The grounds already stated may be considered as repeated upon the record. The record will be the same condition with reference to each respondent. It may be considered that a motion is made for a directed verdict upon the grounds which were stated at the close of the Government's case, and that the motion is now made upon all of the evidence, based upon all the evidence in the case, and the motion in each instance will be overruled and an exception noted to the ruling of the Court.

MR. LITTLETON: I also renew the motion in reference to counts—the nomination and election counts being separated—

that they be taken from the jury, as well as the sixth count o
the indictment. That is practically the same motion I made be
fore.

THE COURT: I have given the question of the elimination o
the second and third counts in this indictment considerable stud
and attention, and I am disposed to hold that those count
should be eliminated from the indictment. It matters not, in m
view of the case, whether those two counts are consolidated wit
the first and the fourth count, or whether they are simpl
dropped out. It is a mere repetition in any event. The firs
and fourth counts will be consolidated and treated as one coun
and will be designated as the first count of the indictment. The
are identical as I view them, both under the evidence in th
case and as a matter of law. The second and third counts whe
combined, as I think they must be, are identical with either th
first or the fourth count. In other words, the matters relatin
to the primary election and the general election are separated
the second count referring to the primary election and the thir
count referring to the general election. The statute itself doe
not make any separation. The prohibition is against the ex
penditure and use of money by the candidates in procuring hi
nomination and election, and the counts are identical in lan
guage, save the one refers to the primary election and the othe
to the general election, and if the two are combined, as I think
they must be, then the two counts together will be identical wit
the first and the fourth count in the indictment, and therefore i
seems to me they may be consolidated with the first and fourth
count, making one count, or they may be eliminated altogether
I do not see it makes any difference. It will be mere repetition.
am constrained to that view more especially in view of one tes
that is to be applied, the theory of different counts in an indict
ment is that each charges a separate and distinct offense from
the others; and applying the test, suppose there were a convic
tion upon all four counts: in pronouncing judgment would the
Court be warranted in pronouncing cumulative sentences and
imposing a punishment under each count, which in the aggre
gate of all the counts would exceed the maximum punish
ment which might be imposed under any one of the counts
and obviously the Court would not be justified in so doing; and
moreover I am satisfied that any acquittal or a conviction upon
the first count would be a bar to a prosecution upon either the
second or the third counts, and certainly would be a bar to
a prosecution upon the fourth count of the indictment. There
fore, under all the circumstances, I shall instruct the Jury tha

there are but two counts to be considered by them; the first being a consolidated count and called the first count and the sixth count of the indictment. I think that disposes of that matter.

Messrs. Dailey and Eichhorn addressed the Jury on behalf of the Government and Messrs. Littleton, Murfin and Nichols addressed them on behalf of the defendants.

Mr. Littleton in the course of his argument referring to that part of the testimony of the defendant Paul H. King in which the latter stated that he had called the attention of the county secretaries to the provisions of the Michigan Primary Election Law and the restrictions therein contained, and had enjoined upon them a strict observance in every way of the law, that he had a copy of the law in his office at all times, and had made a study of it upon a previous occasion and was very familiar with it, proceeded:

"Now gentlemen, again I say, let me make my point complete, what was it Paul King was looking at? He was looking at the Michigan statute, Michigan primary election law. Judge Eichhorn read yesterday, or day before yesterday, a portion of this statute, in which he showed that the Michigan law requires that a candidate should not expend of his own money more than a certain percentage of his salary, which as we have heard often in here amounted to about so much, and that I did not quarrel with because that portion of the statute that has been tucked into and adopted by the Federal statute, but King had confronting him, was consulting no doubt, was being guided by, and I admonish you, and I am bringing this to your attention in order to let you see whether King was conspiring with the Michigan laws in front of him or could have conspired, or whether he was being guided by what you would have been guided by or any other man honestly in search of what would be his guide, and therefore to test out the question of the depth of his motives and purpose in doing what he did."

Mr. Littleton was here interrupted by the court with the following observation:

"The interpretation of the law and the meaning of the law is for the Court. The provision which has been read may properly be read and commented upon. Other provisions of the Michigan statute have no application to the offense charged in the first count of this indictment. The Michigan statute is used solely for the purpose of determining the amount in the aggregate that a candidate may expend or cause to be expended and not the purposes for which it may be spent."

MR. LITTLETON: I am not using it on any such purpose as your Honor indicates. Mr. King has testified as one of the men charged with conspiracy that he had this statute before him constantly, and that he admonished the men who worked with him in the name of the statute to obey the statute, and the statute was, as he supposed, and we have a right to infer, his guide, in doing the things that he did. Now then if he should be mistaken and had not known what construction was going to be ultimately placed upon the relations of these state laws to the federal laws, it surely would be proper to argue that in doing this, and in taking these statutes, and following them, he was not conspiring or carrying out a conspiracy, even though he be mistaken as to what ultimate construction would be placed upon these statutes, and I think it is within my right that I should say to the jury, and have a right to say to the jury, and I want to read these eleven sections which were read in the opening of this case to the jury, and which were a part of Judge Murfin's opening which your Honor permitted to be read to the jury at that time,—I am not trying to construe the law. I know that your Honor's right to construe the law is supreme, just as the jury's right to construe the facts, but I am arguing, as I think I have a right to argue, that the question was can a conspirator who was following the laws of his own state and trying to follow them—

THE COURT: So far as the first count is concerned it would matter not whether Mr. King was mistaken in his construction of the law or not.

MR. LITTLETON: I take an exception to that.

THE COURT: The sole question is whether the things were done, intentionally done, which constitute an offense under the laws of the United States.

MR. LITTLETON: I take an exception to that, and I ask your Honor now if I may not discuss the question of whether he had entered into or was carrying out a conspiracy and in connection with that if I may not discuss the fact that he was confessedly and without dispute endeavoring to comply with the laws of Michigan on the question of his motive, and intent and purpose, his criminal purpose. He is charged with a felony. He must have some criminal purpose if he is going to commit a felony? Am I not entitled on the general question of criminal intent which goes with every crime to discuss what he was doing with that statute?

THE COURT: So far as the first count in this indictment is concerned, the subsequent sections of the Michigan statute have nothing to do with it. So far as the sixth count is con-

cerned they have. If that is the purpose in discussing the question of the guilt or innocence of these defendants under the sixth count, you would be entitled to discuss it, but so far as the first count of the indictment is concerned, the subsequent section to the one which has been given to the jury specifying the purposes for which the $3,750 might be spent by the candidate, has nothing to do, because the federal statute provides the aggregate amount of money which may be expended and used for any legitimate purpose.

MR. LITTLETON: I take an exception to your Honor's statement both of fact and construction.

THE COURT: I am not disposed to limit any legitimate discussion, but I am disposed and must limit on both sides any interpretation and construction of the statutes.

MR. LITTLETON: I am not attempting to construe any statute, I am going to read it; I am not going to say it means anything, I am simply going to say this is what Mr. King moved by; I am trying to find if he was a felon when he was doing it. Will I be permitted to do that?

THE COURT: You may do that. You would be entitled to do it under the sixth count of the indictment in any event.

MR. LITTLETON then proceeded with his address, with reference to this point as follows: "Gentlemen of the Jury, I will not, and I shall carefully adhere to the direction of his honor. I want to read you the sections of the Michigan statute which Mr. King swore he had in front of him and concerning which I have just read his testimony. It says no candidate and no treasurer of any political committee shall pay, give or lend, or agree to pay, give or lend, either directly or indirectly any money or other valuable thing for any nomination or election expenses whatever except for the following purposes: First, for traveling expenses and personal expenses incident thereto; for printing, stationery, advertising, postage, expressage, freight, telegraph, telephone, and public messenger service. Second, for dissemination of printed information to the public. Third, for political meetings, demonstrations and conventions. Fourth, for the rent, maintenance and furnishing of offices. Fifth, for the payment of clerks, typewriters, stenographers, janitors and messengers actually employed. Sixth, for the employment of challengers at primaries and election to the number allowed by law as such. Seventh, for the payment of public speakers and musicians at public meetings and their necessary traveling expenses. Eight, for copying and classifying of election registers or poll lists, and investigating the right to vote of the persons

listed or registered therein, and conducting proceedings to purge the register and list and prevent improper registration or voting. Ninth, for making canvasses of voters. Tenth, for conveying infirm or disabled voters to and from the polls. Eleventh, for employing as counsel attorneys licensed to practice in accordance with the laws of the state and for the necessary expenses of such counsel. These were the provisions of law that Mr. King referred to in his testimony, gentlemen of the jury, and in connection with which he testified he enjoined upon all of the men who came into the campaign obedience to those laws."

Counsel for the defendants requested the court to charge the jury among other things as follows:

1.

The indictment in this case charges but one offense against the laws of the United States, and that is the offense of conspiracy. You are not permitted to pass upon or consider any other offense than the charge of conspiracy, and you cannot render a verdict against any person charged in the indictment for any other offense than that of conspiracy. You are not permitted to consider the folly, wastefulness or wrongdoing, if any, of any individual respondent, unless such folly, wastfulness or wrongdoing, if any, has a legitimate tendency to establish the crime charged in the indictment, that is, the crime of conspiracy.

7.

You are instructed that the act of Congress heretofore set out and which it is claimed the respondents unlawfully and feloniously conspired to violate is an act which directly and exclusively relates to the contribution of money by the candidate himself, or the causing of contributions of money by the candidate himself. Congress has not assumed to take jurisdiction of or legislate upon the question as to how much money may be expended and used in a campaign for the nomination and election of a senator if and when such money so used and expended is voluntarily contributed by others than the candidate himself.

8.

If you should find from the evidence that there was no conspiracy between two or more of the respondents, having for its object the violation of the act of Congress in question and that

Truman H. Newberry should give, use, expend or promise a sum of money larger than is permitted by the laws of Michigan or the acts of Congress, you may next consider whether you are satisfied beyond a reasonable doubt, from the evidence in the case, that two or more of these respondents unlawfully and feloniously conspired, combined, confederated and agreed together that Truman H. Newberry should cause to be given, contributed, used, expended or promised more money than he as a candidate for senator was permitted by the laws of Michigan or the acts of Congress to cause to be contributed, given, used, promised or expended, and in considering that question and in prosecuting that inquiry, you must, in testing out whether there was a conspiracy that Truman H. Newberry should cause to be contributed, given, used, expended or promised, money in excess of the amount permitted by the laws of Michigan and the act of Congress, determine from the evidence in the case, First, whether there was such a conspiracy, confederation or agreement; Second, whether it had for its specific object the causing to be contributed, given, promised or used through and by Truman H. Newberry of money in excess of the amount allowed by law; and you are instructed that in considering the question as to whether Truman H. Newberry did cause to be contributed, given, used and expended or promised money in excess of the amount permitted by the laws of Michigan or the acts of Congress, that he must have been the direct and procuring cause for the contribution, expenditure, use, promise and giving of such money; that it is not enough that his mere candidacy may have resulted in the voluntary contribution to the support of that candidacy by others; it is not enough that those closely associated with him in family or business life should have been impelled by reasons of friendship or relationship to have voluntarily contributed to the expense of his candidacy; but it is absolutely necessary, in reaching any conclusion as to whether Truman H. Newberry caused to be given, contributed, used or expended any money to defray the expense of his campaign, that you should find that he directly procured contributions to be made for the purpose of defraying those expenses, and in no event are you to consider the question as to whether Truman H. Newberry did cause money to be contributed, given, expended, used or promised, except for the purpose of determining whether prior to that time he and one or more of the respondents had unlawfully and feloniously conspired, combined, confederated and agreed that such causing of contributions and expenditures of money should be done and that this was the specific object of their conspiracy.

9.

I instruct you that to warrant a conviction of these respond
ents, or any of them, the Government must have established by
evidence beyond a reasonable doubt each and every essential ele
ment and ingredient of the crime charged. In other words, to
warrant a conviction the Government must have so established
First, that the respondents, or two or more of them, entered
into the alleged unlawful conspiracy and agreement; Second
that the object or purpose of such conspiracy was
that Truman H. Newberry should give, contribute, expend
use or promise, or cause to be given, contributed, expended
used and promised in the aggregate a sum of money to procure
his nomination and election to the United States Senate in excess
of the amount permitted by the laws of Michigan or the acts of
Congress; Third, that after the conspiracy was formed and en
tered into, one or more of the defendants committed an act or
acts to effect the object of the conspiracy; and in that connection
I charge you that the evidence must be such as to exclude every
single reasonable hypothesis except that of the guilt of the re
spondents. In other words, all of the facts proved must be con
sistent with and point to the guilt of the respondents, and must
be inconsistent with their innocence, and it matters not how
clearly the circumstances might point to guilt, still if they are
reasonable and explainable on a theory which excludes guilt
then it cannot be said that the facts in the case are sufficient to
satisfy the jury beyond a reasonable doubt of the guilt of the
respondents, and in that event your verdict should be "Not
guilty."

15.

You are instructed that if you find from the evidence that the
respondent Truman H. Newberry, in the early part of 1918,
either of his own accord or because of the solicitation of his
friends, became a candidate for the nomination for United
States Senator in the State of Michigan and that at or about that
time his business associates, coterie of friends and intimates
voluntarily organized a committee whose officers were duly
appointed or chosen, which committee had for its object the
encouragement and development of the candidacy of the said
Truman H. Newberry for United States Senator, and if you find
from the evidence that thereafter the friends and relatives of
said Truman H. Newberry voluntarily and in good faith con
tributed money to said committee by paying it to its treasurer,
and if you find from the evidence that said money so contributed

was thereafter used, employed and expended by said committee and its officers in furthering the candidacy of the said Truman H. Newberry for the nomination for United States Senator, and if you further find from the evidence that the said Truman H. Newberry did not give, contribute, expend, use or promise any money in aid and support of his candidacy in excess of the amount permitted by the laws of Michigan and the acts of congress, and if you further find that the said Truman H. Newberry did not actively and directly procure to be given contributed, used, expended or promised any money to said committee or its treasurer in excess of the amount permitted by the laws of Michigan or the acts of Congress, and if you further find that there was no unlawful and felonious conspiracy, combination, confederation or agreement by and between two or more of the respondents that Truman H. Newberry should contribute, give, use, expend or promise, or actively and directly procure it to be contributed, given, used, expended or promised, then and in that event your verdict must be "Not Guilty" as to all of the respondents, even though you should find that the Committee which conducted his campaign, or certain of its representatives and agents, expended money contrary to the provisions of the laws of Michigan, and even though you should find that a large and unusual amount of money was contributed to the political committee and its treasurer, and even though you should find that it was wrongfully and wastefully expended in the campaign.

The court having considered the foregoing requests, thereupon instructed the jury as follows:

Gentlemen of the Jury: This long and in many respects remarkable trial is drawing to a close. It has now reached the stage where it becomes my duty to give you instructions as to the law of the case, which it will be your bounden duty to follow and which will be your guide in your consideration and application of the facts of the case to the question of the guilt or innocence of the respondents. It is of the utmost importance that you should clearly understand and appreciate the questions which you are called upon to decide. Therefore, your earnest and undivided attention is not only invited but required. While the testimony in this case has come from the mouths of many witnesses, and while the evidence both oral and documentary, and the arguments of counsel have necessarily covered a wide range, yet the essential issues which you are called upon to determine, and which are presented for your determination, lie within a comparatively narrow compass and are quite simple, quite plain, and easily understood.

The charge in this case is conspiracy. The defendants are not charged with a violation of either the election or the postal laws of the United States; but they are charged with a conspiracy to violate those laws. You have no right to convict any of the respondents upon any other charge than the one contained in the indictment. However, in order correctly to determine whether the essential elements of the crime of conspiracy have been proven, it will be proper and it may be necessary for you to consider the evidence relating to violations of both the election and the postal laws.

The indictment in this case as originally drafted and as returned by the Grand Jury contained six counts. The fifth count was dismissed during the progress of the trial and is withdrawn from your consideration.

The charge contained in the first count and the fourth count are in all essential respects identical; therefore it has been determined to consolidate the first and fourth counts, and they will be so consolidated and treated as one count, and will be designated as the first or consolidated count of the indictment.

The second and third counts of the indictment, when construed and interpreted together as they must be, the one relating to the primary election and the other to the general election, are in all essential respects identical with the fourth or the first count, or the first count as consolidated; therefore we may omit the second and third counts of the indictment, and they will be withdrawn from your consideration. There remain, therefore, in this indictment the first or consolidated count, and the sixth count.

The precise charge contained in the first or consolidated count of the indictment is, that these respondents unlawfully and feloniously entered into a conspiracy or agreement to commit an offense against the United States by wilfully violating an Act of Congress, which properly has been termed and designated as a "Corrupt Practices Act," and which prohibits the unlawful and excessive expenditure and use of money by a candidate for the office of United States Senator in procuring his nomination and election to that office. And further charges that one or more of the respondents did one or more acts to effect the object of such conspiracy. The precise charge against the respondents contained in the sixth count is that they unlawfully and feloniously conspired and agreed together to commit an offense against the United States by devising a scheme to defraud, and by using the United States mails in the execution of such fraudulent scheme, and that one or more of the respondents did one or

more acts to effect the object of such conspiracy. In other words, the offense charged in the first or consolidated count is conspiracy to violate the laws of the United States in regard to the amount of money permitted to be expended and used, or caused to be expended or used by a candidate for United States Senator; and in the sixth count is conspiracy to violate the postal laws of the United States.

It is one or the other or both of these conspiracies, therefore, that it is incumbent upon the Government to prove. Proof of a conspiracy for any other purpose is insufficient. The defendants on trial have been indicted for these conspiracies; and to warrant a conviction of any respondent you must find that there was such a conspiracy or conspiracies, and that he became a party thereto and participated therein with the intent to promote and accomplish the common purpose and design of such conspiracy or conspiracies.

The law presumes these respondents and each and all of them to be innocent of any crime charged in this indictment, and throws around them and each of them the protection of that presumption. Therefore it will be your duty as jurors to commence your deliberations with the presumption of the innocence of the respondents uppermost in your minds and to continue your deliberations with that presumption uppermost in your minds until you become convinced of their guilt by the evidence in the case and beyond a reasonable doubt.

The burden is upon the Government to negative every reasonable theory or hypothesis of innocence, and to establish every essential element of the crime charged against these respondents by evidence which convinces you of the truth of the charge made against them beyond a reasonable doubt.

There is sometimes some uncertainty and confusion in the minds of jurors as to just what is meant by "a reasonable doubt." There ought not to be. It means just what the term implies—a doubt for which there is a reason. It is not a mere possible, imaginary, or captious doubt; it is not a doubt based upon bias or prejudice. If any one of your number has any bias or prejudice against any respondent in this case, or against the Government, or against the prosecution of a case of this kind, you will lay it aside and not let it influence you in the slightest degree in rendering your verdict. If any one of your number has any bias or prejudice growing out of your political party affiliations, you should lay that aside. This is not a political case. This case does not involve the rights or disabilities of any political party. No political party, and no member of a political party as such, is

here on trial. The matters involved in this case are broader in character than that, and involve matters of greater importance. This case involves matters which lie at the foundation of our form of Government and of the rights of American citizens.

A reasonable doubt is not a doubt based upon sentiment or sympathy. During the progress of this trial one or more of these respondents have become ill, had the misfortune to be sick. On one occasion the trial of this case had to be suspended and was delayed for some time. Every man sympathizes, rightfully, with the misfortune or sickness of any other man; but neither misfortune nor sickness is a defense against the charge of past wrong-doing, and you should not let your sympathy for any of these respondents, or for the members of their families, to influence you in the slightest degree in rendering your verdict. A reasonable doubt is not a doubt based upon apprehension as to what punishment may follow conviction. You have heard in the arguments of counsel references made to the consequences which may follow conviction at your hands. You have nothing to do with that question. Your sole duty lies in determining the guilt or innocence of these respondents. If you acquit them, of course, no punishment will follow. If you convict them the law lays upon the Judge of this Court the sole responsibility of measuring the punishment of the guilty. The matter of punishment, whether by fine or imprisonment, or both rests in the sound discretion and the best judgment of this Court, and you have nothing to do with that question, and should not take it into consideration in arriving at your verdict.

A reasonable doubt is, and it must be, a fair doubt, an honest doubt; it is, and it must be, a doubt which grows out of the evidence in the case. It is, and it must be, a doubt based upon reason and common sense. You as jurors, in determining the questions which are presented to you for your determination, are required to use your best judgment and to bring to bear your common sense. No juror who has such a reasonable doubt, that is, a fair and honest doubt, growing out of the evidence in the case and based upon reason and common sense as to the guilt of these respondents, has a right to vote for conviction. On the other hand, no juror has a right, arbitrarily and without reason, to say that he has a doubt and refuse to convict. If you have such a reasonable doubt as to the guilt of these respondents, or some of them, you will acquit those concerning whose guilt you have such doubt. On the other hand, it is equally your duty if you have no such reasonable doubt of their guilt, to convict them.

You have heard read, in whole or in part, several times during the progress of this trial the first count of this indictment. It is, therefore, unnecessary that I should again repeat the count as it is written and as it was returned; yet it may be of aid to you if reference is again made to the essential parts, or the essential allegations of the count. The charge therein contained is, in substance, that at the primary and general elections of 1918, the defendant, Truman H. Newberry, was a candidate for the office of United States Senator from Michigan, and that prior to such election the respondents, or some of them, to quote the indictment, "unlawfully and feloniously did conspire, combine, confederate and agree together to commit an offense against the United States, to-wit, the offense on the part of said Truman H. Newberry of wilfully violating the Act of Congress approved June 25, 1910, as amended by the Acts of August 19, 1911, and August 23, 1912, by giving, contributing, expending and using and by causing to be given, contributed, expended and used, in procuring his nomination and election as said Senator at said primary and general elections, a sum, in the aggregate, in excess of the amount which he might lawfully give, contribute, expend or use, or cause to be given, contributed, expended or used for such purposes under the laws of the State of Michigan and the United States; and on the part of the other defendants of aiding, counseling, inducing and procuring said Truman H. Newberry so to give, contribute, expend and use and cause to be given, contributed, expended and used said large sum of money in excess of the amounts permitted by the laws of the State of Michigan and said Acts of Congress," and that the defendants or some of them, did, one or more of the acts alleged in this count of the indictment to effect the object of such conspiracy.

It thus appears that the essential elements of the crime charged in the first count of the indictment, which must be established by the evidence in the case are:

First, An agreement and combination or understanding, or plan, express or implied, by two or more of these respondents that the candidate, Truman H. Newberry, would wilfully violate or should be induced and procured to wilfully violate the Federal Corrupt Practices Act by knowingly and intentionally giving, contributing, expending or using, or causing to be given, contributed, expended or used in procuring his nomination and election a sum of money in the aggregate exceeding the amount permitted by law to be so given, contributed, expended or used.

And, Second, The doing of one or more of the overt acts set

forth in the indictment for the purpose of effecting the object o
the conspiracy.

Several years ago the Congress of the United States enacted
Statute which has since been known as a Corrupt Practices Act
In that Statute the Congress expressly recognized the evil of th
expenditure and use of excessive and large sums of money i
procuring the nomination and election of members of Congress
and sought to remedy and prevent the practice of such evil in th
future. The means adopted for such remedy and prevention
were two fold:

First, A requirement of publicity of campaign receipts an
disbursements; and

Secondly, Broad, comprehensive and drastic provisions mak
ing the expenditure and use of excessive sums of money by th
candidate, either by himself directly or by and through others
with his active assistance, co-operation, inducement or procure
ment, a punishable crime.

Since the enactment of that Statute the expenditure and us
of excessive amounts of money by a candidate for United State
Senator, or by and through his assistance, agency or procure
ment in obtaining his nomination and election, have been un
lawful and have constituted an offense against the United States

The requirements for publicity of campaign receipts and ex
penditures are found in the provisions of the Statute which re
quires the candidate, before and after both the primary and th
general election, to make, verified by his oath, and file with the
Secretary of the Senate at Washington, "Full, correct and item
ized statements of all moneys and things of value received by
him or by anyone for him with his acknowledge and consent
from any source, in aid,or support of his candidacy, together
with the names of all those who have furnished the same in
whole or in part;" and also "Of all moneys and things of value
given, contributed, expended, used or promised by such candi
date, or by his agent, representative, or other person for and in
his behalf with his knowledge and consent, together with the
names of all those to whom any and all such gifts, contribu
tions, payments or promises were made for the purpose of pro
curing his nomination or election."

The material provisions of the particular paragraph of the
Act of Congress which prohibit the expenditure and use of ex
cessive amounts of money, and upon which the first count of this
Indictment and this prosecution are partly based, are these:

"No candidate for Senator of the United States shall give, con
tribute, expend, use or promise, or cause to be given, contrib

uted, expended, used or promised, in procuring his nomination and election, any sum, in the aggregate in excess of the amount which he may lawfully give, contribute, expend or promise under the laws of the State in which he resides; provided, that no candidate for Senator of the United States shall give, contribute, expend, use, or promise any sum, in the aggregate exceeding $10,000.00 in any campaign for his nomination and election: Provided, further that money expended for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationary and postage, writing or printing (other than in newspaper) and distributing letters, circulars and posters, and for telegram and telephone service, shall not be regarded as an expenditure within the meaning of this section, and shall not be considered any part of the sum herein fixed as the limit of expenses and need not be shown in the statements herein required to be filed."

The proviso of the Statute relative to the limitation of expenditures and use of money by the candidate to $10,000.00 is not of very much importance or materiality in this case, for the reason that that proviso was inserted in the Statute to meet cases where the Statute of the State either fixed no limit to such expenditures, or fixed a limit above the sum of $10,000.00. The Statute of the State of Michigan itself fixes the limit of such expenditures below the sum of $10,000.00; therefore the proviso in the Federal Act has not very much importance or materiality in this case.

The material part of the Statute of the State of Michigan fixing and limiting the amount of money which may be expended or used by a candidate for the office of United States Senator in procuring his nomination and election to that office is as follows:

"No sums of money shall be paid, and no expenses authorized or incurred by or on behalf of any candidate to be paid by him in order to secure or aid in securing his nomination to any public office or position in this State, in excess of twenty-five per cent of one year's compensation or salary of the office for which he is candidate. No sums of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate who has received the nomination to any public office or position in this state in excess of twenty-five per cent of one year's salary or compensation for the office for which he is nominated.

The annual salary of a United States Senator is $7,500.00. Therefore, the Statute of the State of Michigan and the Act of Congress limit the amount of money which a candidate for

that office may lawfully expend or use in procuring his nomination to the sum of $1875.00, and in procuring his election after nomination to a like sum, and in procuring both his nomination and election to the aggregate sum of $3750.00, exclusive of the amounts which he may use or expend for his personal expenses as provided in the last proviso of the Statute which has been read.

It is important, therefore, that you should understand the meaning of the language employed in this Corrupt Practices Act, and that you should understand and comprehend the effect and scope of the act, and the meaning of the language there employed, and the effect and scope and extent of the prohibition against the expenditure and use of money therein contained.

The words "Give, contribute, expend or use" as employed in this statute have their usual and ordinary significance, and mean furnish, pay out, disburse, employ, or make use of. The term "To cause to be expended, or used" as it is employed in this Statute, means to occasion, to effect, to bring about, to produce the expenditure and use of money.

The prohibition contained in this Statute against the expenditure and use of money by the candidate is not limited or confined to the expenditure and use of his own money. The prohibition is directed against the use and expenditure of excessive sums of money by the candidate from whatever source or from whomsoever those moneys may be derived.

The phrase which constitutes the prohibition against the candidate "Causing to be given, contributed, expended or used excessive sums of money," is not limited and not confined to expenditures and use of money made directly and personally by himself. This prohibition extends to the expenditure and use of excessive sums of money in which the candidate actively participates, or assists, or advises, or directs, or induces, or procures. The prohibition extends not only to the expenditure and use of excessive sums of money by the candidate directly and personally, but to such use and expenditure through his agency, or procurment or assistance.

To constitute a violation of this Statute knowledge of the expenditure and use of excessive sums of money on the part of the candidate is not sufficient; neither is it sufficient to constitute a violation of this Statute that the candidate merely acquiesces in such expenditures and use. But it is sufficient to constitute a violation of this Statute if the candidate actively participates in doing the things which occasion such expenditures

and use of money and so actively participates with knowledge that the money is being expended and used.

To apply these rules to this case: If you are satisfied from the evidence that the defendant, Truman H. Newberry at or about the time that he became a candidate for United States Senator was informed and knew that his campaign for the nomination and election would require the expenditure and use of more money than is permitted by law and with such knowledge became a candidate, and thereafter by advice, by conduct, by his acts, by his direction, by his counsel, or by his procurement he actively participated and took part in the expenditure and use of an excessive sum of money, of an unlawful sum of money, you will be warranted in finding that he did violate this statute known as the Corrupt Practices Act.

There is another Federal Statute which is one of the sections of the criminal or penal code of the United States, which provides, in substance, that any person who aids, counsels, induces or procures another person to commit a crime, shall be deemed guilty of the crime committed through his aid, counsel, inducement or procurement. Hence any person who knowingly and intentionally aids, counsels, induces or procures a candidate for United States Senator to give, contribute, expend or use, or to cause to be given, contributed, expended or used in procuring his nomination and election an excessive and unlawful amount of money, is also guilty of violation of the Corrupt Practices Act, the act of Congress.

Applying this Statute to the present case, if you are satisfied from the evidence in this case that the respondents other than the defendant Truman H. Newberry or some of them did in fact aid, assist, counsel, induce or procure the defendant Truman H. Newberry to violate the Federal Corrupt Practices Act, you will be warranted in finding that they also were guilty of a violation of that act.

There is another Federal Statute, which is a part of the criminal or penal code of the United States, which provides, in substance, that if two or more persons shall conspire to commit an offense against the United States and one or more of such persons shall do an act to effect the object of such conspiracy, they shall be guilty of a crime.

These three laws or Statutes: the Corrupt Practices Act; the Statute making it a crime for one person to aid, counsel, induce or procure another to commit an offense; and, the Conspiracy Statute, are involved in and controlling of the issues in this case.

So that the specific charge made against these respondents in

the first count of this indictment, founded upon these three statutes, is that at some time or times between the 1st day of December, 1917 and the 5th day of November, 1918, these respondents were engaged in a conspiracy or unlawful agreement that the defendant, Truman H. Newberry, would give, contribute, expend or use, or cause to be given, contributed, expended or used in procuring his nomination and election as United States Senator, a sum of money in the aggregate in excess of the amount authorized and permitted by the laws of the State of Michigan and the United States, and that the other defendants would aid, counsel, induce or procure him so to do; and that one or more of the defendants committed certain acts to effect the object of that conspiracy.

Therefore, the first question for you to determine is whether or not these respondents, or some of them, did conspire and agree to commit an offense against the United States as alleged in the first count of the indictment.

Counsel have indulged in considerable argument as to what constitutes a conspiracy. There is nothing mysterious or difficult to understand about a conspiracy. A conspiracy, generally speaking, is an agreement between two or more persons to do an unlawful act. Under the laws of the United States a conspiracy is an agreement between two or more persons to commit an offense against the United States. To constitute a conspiracy there need not be a formal agreement either in writing or by words. It is sufficient if there is a common understanding and a concert of action, if the conspirators knowingly act together with a common purpose, design and intent to do the act which is made an offense by the laws of the United States. Neither the intent to form a conspiracy, nor the conspiracy itself, need be proven by an express agreement. Its exact terms and its details need not be formulated in writing or in words, or brought to the attention of each of the respondents. But there must be a definite intent and combination.

To constitute a conspiracy it is not necessary that two or more persons should meet together and enter into an explicit or formal agreement for an unlawful scheme, or that they should directly, in words or in writing, state what the unlawful scheme is to be, and the details of the plan or means by which the unlawful combination is to be made effective. It is sufficient if two or more persons, in any manner, or through any contrivance, come to a mutual understanding to accomplish the combination and unlawful design. In other words, where an unlawful end is sought to be effected and two or more persons,

actuated by a common purpose of accomplishing that end, work together in any way in furtherance of the unlawful scheme, such persons become conspirators.

In this case it is enough if an arrangement or plan was made such as is set out in the first count of the indictment, and some act, in furtherance of such plan or arrangement and specified in that count, was done by one of the parties to such plan or arrangement.

Counsel have also indulged in some comment concerning the criminal intent which is involved in a conspiracy. A criminal intent is one of the essential elements of an unlawful conspiracy. There must be an evil design and a wrongful purpose. A conspiracy cannot exist without a guilty intent being then present in the minds of the conspirators. But this does not mean that the parties must know that they are violating the Statutes of the United States. In order to warrant a verdict of guilty, the Government is not required to prove that the parties knew that some Statute forbade the acts they were performing. Every person is presumed to know the law, and also to intend the natural and ordinary results and consequences of his acts and conduct. An unlawful or wrongful intent may be implied from the intentional doing of an unlawful act. Wrongful acts, knowingly or intentionally committed, cannot be justified on the ground of innocent intent. To establish a conspiracy to violate a law or to commit an offense, it is only necessary to show an agreement to do the acts which constitute such violation or offense. The only question for you to pass upon is whether the defendants, violated the law; not whether they had any knowledge that they were violating the law.

To apply these rules of law to the present case: If you find from the evidence that these respondents, or some of them, entered into an agreement, plan or arrangement that there should be expended in procuring the nomination and election of the defendant Truman H. Newberry to the office of United States Senator a sum of money in excess of the sum of $3750, and you further find that it was a part of that plan, agreement or arrangement, definitely understood, that the defendant Truman H. Newberry should knowingly and intentionally and actively participate and take part in such expenditure and use of money by his acts and conduct, or by his direction or advice or counsel, you would be warranted in finding that a conspiracy did exist such as is charged in the first count of this indictment.

The uncontradicted evidence in this case shows that a very extensive and complete organization was perfected for the pur-

pose of procuring the nomination of defendant Truman H. Newberry to the office of United States Senator. The evidence also shows and establishes that a large sum of money, very much in excess of the amount which he was permitted to expend or use in procuring his nomination was expended and used.

The defendants claim that there was no plan or arrangement that Truman H. Newberry should take an active part in the campaign. They also claim that in fact he did not actively participate in the campaign, or by his actions or declarations cause any money to be used or expended. The defendants also claim that whatever was done by the campaign committee, or members of the campaign organization, involving the use and expenditure of money, was done lawfully and in a lawful manner and independently of the defendant Truman H. Newberry.

The Government claims that there was a plan, arrangement or agreement that defendant Truman H. Newberry should participate actively in the campaign, and that by his actions, advice, direction and approval, he did in fact cause the use and expenditure of large sums of money in procuring his nomination and election.

And the Government also claims that it was a part of the plan, arrangement or agreement that the other defendants should aid, counsel, induce and procure defendant Truman H. Newberry so to do, and that in fact they did co-operate with him in so doing.

The Government does not claim and need not prove in order to warrant a conviction that the campaign organization was in itself unlawful, nor that the primary purpose of such organization or campaign was the expenditure and use of an unlawful amount of money.

The Government is not required to prove that the candidate Truman H. Newberry planned to use or caused to be used and expended his own money. It is sufficient to show that there was a plan or arrangement or agreement that money in excess of the amount permitted by law should be used and expended in procuring the nomination and election of Truman H. Newberry, in which plan, arrangement or agreement he was to actively participate or to be induced and procured to participate regardless of whether such expenditure and use of money was the primary purpose or merely an incident to or connected with the campaign. In other words, the Government does not claim that the complete and extensive campaign organization known as the Newberry organization was in itself an unlawful or_an-

zation. The Government does not claim that the primary purpose of that organization was to expend or use an unlawful or excessive amount of money. The Government is not required to prove that there was a plan or arrangement that the money which was expended or used should be furnished by the defendant Truman H. Newberry. It is sufficient if the evidence establishes to your satisfaction that as incidental to or connected with the campaign or the campaign organization or involved therein, there was an arrangement or agreement or plan that an excessive and unlawful amount of money should be expended and that the defendant Truman H. Newberry should assist in such expenditure or use of money.

The evidence in this case has necessarily covered a wide range and many subjects, but all of the evidence which has been introduced has been admitted for the sole purpose of aiding you in determining whether the alleged conspiracy existed, and who of the defendants were parties thereto or engaged therein, and whether the overt acts which are alleged in the indictment or any of them were committed.

Among other evidence so admitted for that purpose is that relating to the candidacy of the defendant James W. Helme for the nomination for United States Senator; that relating to the genuineness of certain petitions and the signatures upon those petitions filed in the office of the Secretary of State of the State of Michigan in his behalf; the evidence concerning a moving picture film, the organization of what was known as the Bobo Club, campaign work among the Polish workers, railroad employees, marine service men, labor unions and other classes and groups of men in different walks of life and different occupations and professions.

This and the other evidence in the case is to be considered by you solely for the purpose of determining whether the alleged conspiracy or any unlawful agreement existed and whether the things so claimed to have been done were done in furtherance of such conspiracy. No man can look into another man's mind and accurately determine his intents and purposes. The intentions and the purposes and the designs of every man must be determined from his acts and his conduct and his declarations. Whether there was an agreement that defendant Truman H. Newberry should actively co-operate with and by his actions, counsel and his advice direct or assist the other defendants or some of them in the use and expenditure of campaign moneys whether contributed by himself or others and thereby cause such use and expenditure, must be determined

from the evidence both oral and documentary in the whole case. In determining that question which is the important question in this case, you have a right and it is your duty to carefully consider all of the evidence in the case; to take into consideration the circumstances and conditions surrounding these defendants during the campaign of 1918 and surrounding the campaign itself; take into consideration the information and knowledge if any, which the defendant Truman H. Newberry had, that the expenditure and use of an excessive and unlawful amount of money would be required in order to procure his nomination and election; take into consideration the part, if any, which you find that he took in that campaign; take into consideration his information and knowledge, if any, as to what was being done during the progress of the campaign; take into consideration any conference which you may find that he had with the campaign manager or the campaign agents or other persons connected with the campaign in New York or elsewhere; take into consideration the correspondence between these parties with reference to the campaign; take into consideration the letters which were written by the defendant Truman H. Newberry to the campaign manager; to the campaign agents and to other persons who have become interested in the campaign; take all of these matters and all of the circumstances and conditions there shown by the evidence into consideration and from that evidence determine whether there was a plan, arrangement or agreement entered into by some of these defendants whereby and in accordance with which it was planned, arranged and agreed that the defendant Truman H. Newberry should participate in the expenditure and use of an excessive and unlawful amount of money to procure his nomination and election, and whereby it was planned, arranged and agreed that the other defendants, or some of them, would co-operate with and assist him in so doing, and that he would co-operate with and assist them in so doing. If you are not satisfied from the evidence in the case that there was an unlawful agreement or conspiracy as alleged in the first count of the indictment, that will end the case, and your verdict will be not guilty as to all of the respondents. On the other hand, if you find and are satisfied from the evidence in the case that two or more of the defendants did enter into such an unlawful conspiracy and agreement as is alleged in the first count of the indictment, you will then determine from the evidence the defendants who are parties thereto.

The case of each defendant should be given full and careful

consideration by you. A review of the testimony relating to each defendant would not be of much assistance to you and perhaps would be improper on my part. You have heard the evidence in the case and you are the judges of the facts. To warrant a conviction of any individual defendant who was not a party to the alleged unlawful conspiracy at its creation and beginning, the evidence must show and you must find:

1st: That the alleged conspiracy actually existed, that is, was entered into by and between some of the defendants.

2nd: That the individual defendant had knowledge of the existence of such conspiracy and of its purpose and character, and,

3rd: That the individual defendant having such knowledge did some act or made some declaration knowingly and intentionally for the purpose of furthering or effecting the object of the conspiracy.

There are certain general rules or propositions of law which will be of assistance to you in determining this question or in determining the question of the guilt or innocence of the individual defendants.

One of those rules of law is this. The connection of any defendant with the conspiracy must be shown by his own acts, conduct or declarations independently of the acts, conduct or declarations of the other defendants.

Another of those rules of law is this: the declarations and acts of any respondent made or done after the termination of the conspiracy, such as his testimony before the Grand Jury or statements written or oral made by the Government agents or other persons, can be considered only as against him and not as against the other respondents.

Another rule of law is this: The declarations and acts of any respondent during the continuance of the conspiracy but not for the purpose of effecting the object of the conspiracy, can be considered only as against such respondent and not against the others.

Another rule of law is this: Any respondent who was not a member of the conspiracy must be acquitted and his declarations and acts made and done independently of the others cannot be considered and used against such others.

Another rule of law is this: when the conspiracy and the connection of any defendant therewith have been established from his own acts, conduct and declarations thereafter each conspirator and each defendant whom you find to have been a conspirator is bound by the acts, conduct and declarations of

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all other conspirators done or made to carry out or effect the object of the conspiracy. In other words, a conspiracy is a criminal partnership and each member of the conspiracy is bound by the declarations and the acts and the conduct of every other member of the conspiracy made or done for the purpose of carrying out the purpose and design of the conspiracy.

As to the individual defendants, it thus appears that the knowledge of the defendant of the existence of the conspiracy and of its character and purpose is an important and essential element, and in determining whether any individual defendant had knowledge of the existence of the conspiracy and of its character and purpose you have a right, and it is your duty, to take into consideration all of the evidence in the case bearing upon that subject and all of the circumstances and conditions shown by the evidence in the case as surrounding that defendant. In determining that question it is not necessary that you should find that any individual respondent had knowledge of all the details of the agreement or plan or conspiracy. It is sufficient if you find that he had knowledge of the general plan and arrangement and agreement and conspiracy. You should take into consideration the knowledge and information any individual respondent had concerning any part of the campaign; take into consideration his knowledge and information, if any, as to the amount of money which was being expended and used; take into consideration his knowledge and information, if any, as to the extent of the publicity by newspaper advertising or by the distribution of literature or by other means which was being carried on; take into consideration his knowledge and information, if any, as to the extent and character of the campaign organization; take into consideration his knowledge and means of knowledge as to the cost and expenses of carrying on such an organized effort; take into consideration his knowledge and information, if any, of the defendant Truman H. Newberry's connection with the campaign; take into consideration any visits that he may have made to the campaign headquarters, either at Detroit or at Grand Rapids; take into consideration any communications or conferences, any communications which he may have received or sent or any conferences which he may have had with other members of the campaign organization; take into consideration his knowledge and information, if any, and his acquaintance, if any, with the work of other defendants in the campaign; take into consideration all of these matters and of all matters which are shown by the evidence and determine from the evidence and all of the evidence whether the indi-

vidual defendant whose case is under consideration by you was informed and had knowledge of the plan, arrangement or agreement for the expenditure and use of campaign moneys and of the defendant Newberry's connection therewith, if any.

If you find that the unlawful agreement or conspiracy existed and you further find that an individual defendant whose case you will have under consideration had knowledge of the existence of the conspiracy and of its character and purpose, you will then determine whether with such knowledge he did any act intentionally and knowingly in furtherance of and in the execution of and the carrying out of such agreement or conspiracy. It is not necessary to warrant a conviction of any respondent that he should have taken a major part or an important part in the unlawful conspiracy. His part may have been a minor one, but if he knew of the conspiracy and its character and purpose and knowingly and intentionally did any act to further and carry out and accomplish the design and purpose of the conspiracy, you would be warranted in finding that he was a party to the conspiracy and in convicting him.

To warrant a conviction of any of the respondents you must not only find that there was an unlawful agreement and conspiracy but you must also find that one or more of the overt acts which are alleged in the indictment and which have been read to you and which I need not now repeat, were committed by one or more of the conspirators to effect the object of the conspiracy, and if you find that these respondents or some of them did combine and confederate and conspire to violate the Corrupt Practices Act of the United States and that one or more of the conspirators did some overt act alleged in this indictment in order to effect the object of such conspiracy, you will convict the respondents whom you find to have been parties to such conspiracy.

Coming now to the Sixth Count of the indictment. Here again the charge is conspiracy, but a conspiracy with a different object and purpose, a conspiracy to commit another offense against the United States, a conspiracy to violate the postal laws of the United Staes, the postal law which prohibits any person from using the mails of the United States to carry out or to execute a scheme to defraud. The instructions already given you with reference to what constitutes an unlawful conspiracy under the laws of the United States, the essential elements of such a conspiracy, the wrongful intent of the conspirators and the manner and method determining the parties to the conspiracy, apply to this count and need not be repeated.

The Sixth count as originally drafted and as returned by the Grand Jury is very broad and charges among other things a conspiracy to devise a cheme to defraud, 1st, the whole people of the state of Michigan, and 2nd, the candidates for United States Senator at the primary and general elections of 1918, and 3rd, all persons who might or would contribute or who might be induced to contribute money in aid of Truman H. Newberry's candidacy for the office of United States Senator at said primary and general elections.

These allegations are too broad and involve matters which are not cognizable in a court of justice, but are cognizable solely in the court of public opinion and at the polls and at elections. That applies to the alleged scheme to defraud the whole people of the state of Michigan and the candidates for United States Senator at the primary and general elections of 1918. Therefore, those clauses of the indictment will be withdrawn from your consideration and you will be confined in your considerations to the question in that regard as to whether a conspiracy was formed by these respondents, or some of them, to devise a scheme to defraud the contributors to the campaign fund of defendant Truman H. Newberry, and to use the Post Office establishment of the United States to carry out or execute such scheme.

It is charged in the Sixth count that these respondents, or some of them, conspired to devise a scheme to defraud such contributors by soliciting and securing such contributions in unlawful and excessive amounts, and unlawfully appropriating and converting a large part of the same to their own use and benefit, and accomplishing the object of such fraudulent scheme by certain acts and means which are fully described in the indictment and which have been read to you and need not be repeated.

To warrant a conviction of any of the respondents under this count of the indictment, you must find that the respondents, or some of them, entered into an agreement, plan or arrangement.

1st: To devise a fraudulent scheme to secure contributions to the campaign fund of Truman H. Newberry and to wrongfully appropriate and convert to the use and benefit of some of the respondents a part of such contributions, and,

2nd: To use the Post Office establishment of the United States in carrying out and executing such fraudulent scheme, and

3rd: That one or more of the conspirators, did one or more

of the acts specified in the indictment to the effect the object of such conspiracy.

Briefly, the Government claims that there was a plan, arrangement or agreement, by and between some of these respondents that contributions should be solicited and procured for the purpose of aiding the candidacy of defendant Truman H. Newberry for the office of United States Senator, and that they would convert and appropriate a part of such contributions unlawfully to their own use and benefit, or to the use and benefit of some of them.

It is not necessary that the Government should establish that that was the primary purpose of the campaign. It is sufficient if the Government has established or if the evidence does establish that some of these defendants did enter into a plan, agreement or arrangement that they would secure contributions to the campaign fund of defendant Truman H. Newberry and would convert and appropriate a part of such contributions to the use and benefit of some of themselves, because that would have constituted a scheme to defraud the contributors of such money, and in determining whether there was such a conspiracy or unlawful agreement you have a right, and it is your duty to take into consideration all of the evidence in the case bearing upon that subject; take into consideration the correspondence between the parties, and the unlawful agreement must have included an agreement that the United States mails would be used in carrying out or executing the unlawful scheme; take into consideration the correspondence between the parties and the use made of the United States mails; take into consideration the purposes and objects for which the moneys were paid; take into consideration whether moneys were paid to and retained by some of these defendants; take into consideration whether moneys were paid to and retained by some of these defendants; take into consideration the purposes and objects for which money was paid; take into consideration the manner in which moneys were paid; take into consideration the services or want of services of these defendants for which money was paid; take into consideration all of the evidence in the case and determine whether a part of the campaign purposes was to devise such a scheme to defraud and to use the United States mails in furtherance of that scheme. If you find that there was such a conspiracy you will then determine in the manner already described who of the defendants were parties to the conspiracy or unlawful agreement, and also determine whether any of the overt acts which are alleged in the indict-

ment and which have been read to you were committed by any one or more of the respondents to effect the object of the conspiracy.

You are the sole judges of the credibility of the witnesses. It is for you, and you alone, to say what weight and credence shall be given to the testimony of any witness who has testified in this case. In determining the weight and credence which you will give to the testimony of any witness you have a right to take into consideration his demeanor and appearance upon the witness stand, his apparent candor or want of candor in testifying, his knowledge and means of knowledge of the matters concerning which he has testified. You also have a right to take into consideration any bias or prejudice which he may have shown. You have a right to take into consideration any interest which he may have in the outcome of this prosecution, and in weighing and measuring the testimony of the defendants who have taken the stand you have a right to take into consideration their interest in the outcome of this prosecution because they are interested. You have no right for light or trivial reasons to find that any witness has wilfully testified falsely, and it is your duty, if possible, to reconcile and harmonize the testimony of the witnesses upon the theory and basis that each and every witness has attempted to tell the truth. If you are unable to so reconcile and harmonize the testimony of the witnesses, it will then be for you to determine the testimony which is true and that which is untrue, and when you have made that determination, to discard that which you find to be untrue, and to reach a verdict in the case based upon all of the evidence in the case, which under all the circumstances you believe to be true. You should take into consideration the testimony of the so-called character witnesses. Many witnesses have taken the stand and testified to the good reputation of these respondents in the community where they live and where they had lived. That is important testimony for you to take into consideration. A man's reputation and his character are among the best possessions which he can have, and a good reputation in a doubtful case may create a reasonable doubt in the minds of jurors as to the guilt of the respondents.

You may convict all of the respondents. You may acquit all of the respondents. You may convict all of the respondents upon one count and acquit upon the other. You may convict some of the respondents upon one or both counts of the indictment and acquit other respondents upon one or both counts of the indictment.

In form your verdict will be, if you convict all of the respondents upon both counts of the indictment, we find the respondents guilty as charged. If you acquit all of the respondents upon both counts of the indictment, we find the respondents not guilty. If you convict all of the respondents upon one count and acquit all of them upon the other count, your verdict will be, we find the respondents guilty as charged under the first or sixth count as the case may be and not guilty under the other count. If you render different verdicts as to different defendants you will have to take into consideration and report your verdict accordingly as to each defendant.

For your assistance and convenience I have caused to be prepared a list of the respondents now on trial numbered from 1 to 85 inclusive. The sheets upon which those lists are written contain four columns. In the first column will be found the names of the respondents, the second column is under the heading "1st Count", the third column is under the heading "6th Count" and the last column is under the heading "Both Counts" and I offer this suggestion to you, that after retiring to your jury room in addition to selecting a foreman you may select one of your number to act as secretary and to record your proceedings or your findings rather, and that as you pass upon the guilt or innocence of each defendant, there be recorded either by your foreman or by the secretary so to be selected, your verdict under and in these different columns. For example, if you find the first defendant guilty or not guilty under the first count, that you enter the words "guilty" or "not guilty" as the case may be, opposite his name and in the column headed first count, and that the same procedure be had and the same record be made in the column headed Sixth Count, and if you find the defendant, or any particular defendant guilty or not guilty under both counts, that you simply enter the words "guilty" or "not guilty" as the case may be in the column headed both counts. This list, I think, will enable you to make a report of your findings as to each and all of the defendants.

This case is now committed into your hands. Counsel have performed the tasks allotted to them. My duties are ended. Henceforth the responsibility is yours. Rarely, if ever in this Court or in any court within this Commonwealth, has so great and so solemn a responsibility been placed upon jurors as now rests upon you. You will discharge that responsibility calmly, dispassionately, deliberately, without haste, giving to each respondent and his case careful consideration without regard to his position or status in life, for it is true that nowhere are men

equal more than they are at the bar of a court of justice. You will discharge that responsibility fairly and fearlessly under the solemnity of your oaths as jurors, and in accordance with the dictates of your reason and best judgment.

Before the jury retired, and in their presense counsel for the defendants excepted to the refusal of the court to give the instructions requested by them numbered 1, 5, 7, 8, 9 and 15 respectively; also to that portion of the charge in which the court defined the effect and scope of the prohibition against the use of money, particularly to that portion relating to the meaning of the "causing to be given, contributed, expended or used;" also to that particular portion of the charge in which the court said, in substance, that if the jury should find that Truman H. Newberry by and through others, by his own active assistance, agency or procurement occasioned the expenditure of the money, they would be justifiable in finding that he had violated the statute in question; also to that portion of the charge in which the court said that it is not necessary under a charge of conspiracy to violate a statute in this case, that the parties should have known of the existence of the statute; also to that portion of the charge in which the court instructed the jury that the question is whether the defendants violated the law; not whether they knew they were violating the law; also to that portion of the charge in which the court, in speaking of the so-called Corrupt Practices Act, instructed the jury that if Truman H. Newberry knew in advance what the campaign would cost, and that the cost would be in excess of $3750.00, the jury would be warranted in finding he violated this section, without adding to it of course that he is not on trial for violating this section, and whether or not he violated this section has nothing to do with this case, because the question is whether he did violate the conspiracy statute; also to that portion of the charge in which the court instructed the jury that they should consider and determine whether or not there was a plan, arrangement or agreement that Truman H. Newberry would participate in the use of an excessive and unlawful amount of money, without defining and explaining to the Jury that unless Truman H. Newberry contributed or caused to be contributed, within the meaning of the court's instructions, there was no limit as to the amount of money a committee might expend; also to that portion of the court's instructions with respect to knowledge of the respondents whom I understand the Government claims came into this conspiracy after the original conspiracy was formed, in which the court stated to the jury that they may and should take into

consideration the amount of money being used and the publicity given and the character of the organization and its cost, without advising in that same connection that unless the excessive amount of money used was contributed by or caused to be contributed within the definition given by the court, there was no limit as to the amount of money that could be used if the 11th provision of the Michigan Statute applies.

THE COURT: These exceptions may apply to all the defendants.

The jury retired at 5:45 M. on March 18 and on March 20, at 11:25 A. M. returned a verdict finding all of the defendants on trial not guilty under the sixth count of the indictment and finding the defendants named in the title of this bill of exceptions guilty on the first count, and all of the other defendants on trial not guilty on the first count.

Mr. Littleton on behalf of the defendants who had been pronounced guilty by the verdict of the jury moved that judgment be arrested upon the grounds originally stated in the demurrer to the indictment.

The motion was denied, and exception duly taken.

On motion of Mr. Dailey the court pronounced judgment as appears by the record.

Whereupon the defendants, and each of them, for himself and as a co-surety for each and all of the other defendants, acknowledged themselves to be indebted to the United States of America in the sum of five thousand dollars each, to be levied of their goods, chattels, lands and tenements if default be made in the following condition: The condition of this obligation is such that, whereas the defendants have been convicted by the verdict of a jury of the charge in the first count of the indictment herein, and upon such verdict the judgment of the Court has been pronounced, and we have applied to the Court for a stay of proceedings to enable us to move for a new trial, or settle a bill of exceptions upon appeal, as we may be advised; and whereas, the Court has granted such motion upon our entering into this recognizance.

Now, Therefore, if we and each of us shall prosecute our appeal, writ of error, certiorari or other proper remedy, either to the Supreme Court of the United States or to the Circuit Court of Appeals of the Sixth Circuit, as the case may be, to effect, and shall surrender ourselves in execution of any judgment of such Appellate Court, or of this Court, and in all things obey the order of said Appellate Court and this Court in this cause, then

this recognizance shall be void; but otherwise shall be and remain in full force.

THE COURT: In this case there will be a stay of proceedings for ninety days to enable the settlement of a bill of exceptions or the making of a motion for new trial, or such other steps as counsel may advise.

MR. DAILEY: If your Honor please, there were ten pleas of nolo contendere in this case, and one defendant was not arrested. The Government wishes to move at this time for the dismissal and discharge of each of those defendants.

THE COURT: The motion will be granted.

Forasmuch as the matters hereinbefore set forth do not fully appear in the record of said cause wherein the said defendants were placed upon trial as to the said indictment, this bill of exceptions is presented to the court by the said defendants, Truman H. Newberry, Paul H. King, Frederick Cody, Charles A. Floyd, Allen A. Templeton, Hannibal A. Hopkins, B. Frank Emery, Harry O. Turner, Elbert V. Chilson, Roger M. Andrews, John S. Newberry, Milton Oakman, William J. Micke1, Richard H. Fletcher, James F. McGregor, Fred Henry and George S. Ladd, jointly and severally, with the prayer that the same may be settled, allowed, signed and certified by the Judge who presided at the trial of this cause; which is done accordingly this 19th day of June, 1920.

C. W. SESSIONS,
District Judge of the United States for the Western District of Michigan, Southern Division.

It is hereby stipulated and agreed by and between the attorneys for the plaintiffs-in-error and the defendants-in-error, that the foregoing contains all the evidence given upon the trial of this cause tending to establish the guilt of the defendants named in the title of the foregoing bill of exceptions, or any or either of them, of the offense charged in the indictment.

Dated June 19, 1920.

J. O. MURFIN,
Attorney for the Plaintiffs-in-Error.

FRANK C. DAILEY,
Special Assistant to the Attorney General.

In the District Court of the United States of America for the Western District of Michigan, Southern Division.

Of the October Term, in the Year 1919.

First Count.

WESTERN DISTRICT OF MICHIGAN,
Southern Division, ss:

The grand jurors for the United States of America impaneled and sworn in the District Court of the United States for the Southern Division of the Western District of Michigan at the October Term of said court in the year 1919, and inquiring for said division and district, upon their oath present, that Truman H. Newberry, before and on August 27, 1918, was a candidate for the Republican nomination for Senator in the Congress of the United States from the State of Michigan, at the primary election held in said State on said August 27, 1918, under the laws of said State, he the said Truman H. Newberry, on November 5, 1918, the day of the holding of the general election in said State for such Senator, having attained to the age of thirty years and upwards and been a citizen of the United States for more than nine years, and then being an inhabitant and resident of said State; and that said Truman H. Newberry, Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Micke1, Clarence L. Sibben, Mark T. McKee, James T. McGregor, and Frank W. Blair, hereinafter called defendants continuously and at all times throughout the period of time from March 1, 1918, to and including September 11, 1918, at and within said Southern Division of said Western District of Michigan, unlawfully and feloniously did conspire, combine, confederate and agree together, and with divers other persons to said grand jurors unknown, to commit divers offenses against the United States, to wit:

First, the offense of perjury on the part of said Truman H. Newberry, to be committed by him by taking his oath before an officer authorized to administer oaths in a case in which a law of the United States authorized such oath to be administered, and thereupon wilfully and contrary to such oath stating and subscribing material matters which he the said Truman H. Newberry would not then believe to be true; that is to say, by taking an oath before such officer in and for verifying, for filing, as required by the Act of Congress approved June 25, 1910, and amended by the Acts of Congress approved August 19, 1911, and August 23, 1912, with the Secretary of the Senate of the United States, not less than ten or more than fifteen days before the day for holding such primary election, the statement and certificate of him the said Truman H. Newberry, subscribed by him, of expenditures and use of money for the pur-

pose of procuring his said nomination for Senator at said primary election, to the effect that no such expenditures or use of money had been made by his agent or representative, or by any other person, for him or in his behalf, with his the said Truman H. Newberry's knowledge or consent; which said statement and certificate, as each of said defendants would well know, would be a false and unlawful statement and certificate in this, that large sums of money, amounting together to upwards of two hundred thousand dollars, would, before the day of such verification of such statement and certificate and after said March 1, 1918, have in fact been expended and used in said State of Michigan, with the knowledge and consent of said Truman H. Newberry, by agents and representatives of said Truman H. Newberry, to wit, by said Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry G. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Mickel, Clarence L. Sibley, Mark T. McKee, James F. McGregor, and Frank W. Blair, and by divers other persons to said grand jurors unknown, for and in behalf of said Truman H. Newberry, and for the purpose of procuring his said nomination, to wit, money for and on account, among other things, of the printing, after said March 1, 1918, and before the date of such verification of such statement and certificate, of a large number of advertisements, to wit, one hundred thousand advertisements, in a large number of different newspapers, to wit, seven hundred newspapers published between those dates in the different cities, towns and villages throughout said State of Michigan, each of said advertisements setting forth the fact of such candidacy of said Truman H. Newberry and extolling his qualifications for the office of Senator in the Congress of the United States from said State of Michigan, and money for and on account of—

Print paper, cuts, plates and other supplies furnished to newspaper publishers,

Subscriptions to newspapers,

Production, distribution and exhibition of moving pictures,

Traveling and subsistence expenses of campaign managers, public speakers, secret propagandists, field, district and county agents and solicitors, and of voters not infirm or disabled,

Compensation of campaign managers, public speakers and secret propagandists, and of field, district and county agents and solicitors, many of said defendants being such,

Rent of offices and public halls,

Bribery of voters,

Expenses and compensation of Democratic Obstructionist candidate,

Expenses and compensation of detectives,

Dinners, banquets and other entertainments given to persons influential in said State of Michigan;

No part of which said money would be money expended by said Truman H. Newberry, as such candidate, to meet or discharge assessments, fees, or charges made or levied upon candidates by the laws of said State, or for his necessary personal expenses, incurred for

himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), or for distributing letters, circulars, or posters, or for telegraph or telephone service, or for proper legal expenses in maintaining or contesting the results of said election:

Second, the offense on the part of said Truman H. Newberry of unlawfully and willfully filing said false and unlawful statement and certificate with the Secretary of the Senate of the United States at Washington, District of Columbia, as and for the ante-election statement and certificate required of a candidate for Senator in the Congress of the United States by said Acts of Congress, and as and for his the said Truman H. Newberry's sole and only ante-election statement and certificate under the requirement of said Acts, by depositing said false and unlawful statement and certificate in a Post Office of the United States within the time required by said Acts, directed to said Secretary of said Senate, duly stamped and registered, and thereby unlawfully and willfully violating the provisions of said Acts requiring him the said Truman H. Newberry, as such candidate for Senator from said State of Michigan to the Congress of the United States at said primary election, to file, not less than ten nor more than fifteen days before the day, to wit, August 27, 1918, for holding such primary election, a true and itemized account of moneys expended and used by his agent or representative, or by any other person, for and in his behalf, with his knowledge and consent, for the purpose of procuring his nomination:

Third, the offense of perjury on the part of said Truman H. Newberry, to be committed by him in taking his oath before an officer authorized to administer oaths in a case in which a law of the United States authorized such oath to be administered, and thereupon willfully and contrary to such oath stating and subscribing material matters which he the said Truman H. Newberry would not then believe to be true; that is to say, by taking an oath before such officer in and for verifying, for filing, as required by said Acts of Congress, with the Secretary of the Senate of the United States within fifteen days after said primary election, the statement and certificate of him the said Truman H. Newberry, subscribed by him, of expenditures and use of money for the purpose of procuring his nomination at said primary election, to the effect that no such expenditures or use of money had been made by his agent or representative, or by any other person, for him or in his behalf, with his the said Truman H. Newberry's knowledge or consent; which said last-mentioned statement and certificate, as each of said defendants would well know, would be a false and unlawful statement and certificate in this, that large sums of money, amounting together to upwards of two hundred thousand dollars, would, before the day of such verification of such statement and certificate and after said March 1, 1918, have in fact been expended and used in said State of Michigan, with the knowledge and consent of said Truman H. Newberry, by agents and representatives of said Truman H. Newberry, to-wit, by said Paul H. King, Allan A.

Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith Elbert V. Chilson, William J. Mickel, Clarence L. Sibben, Mark T. McKee, James F. McGregor, and Frank W. Blair, and by divers other persons to said grand jurors unknown, for and in behalf of said Truman H. Newberry, and for the purpose of procuring his said nomination, to-wit, money for and on account, among other things, of the printing, after said March 1, 1918, and before the date of such verification of such statement and certificate, of a large number of advertisements, to-wit, one hundred thousand advertisements, in a large number of different newspapers, to-wit, seven hundred newspapers published between those dates in the different cities, towns and villages throughout said State of Michigan, each of said advertisements setting forth the fact of such candidacy of said Truman H. Newberry and extolling his qualifications for the office of Senator in the Congress of the United States from said State of Michigan, and money for and on account of—

Print-paper, cuts, plates and other supplies furnished to newspaper publishers,

Subscriptions to newspapers,

Production, distribution and exhibition of moving pictures,

Traveling and subsistence expenses of campaign managers, public speakers, secret propagandists, field, district and county agents and solicitors, and of voters not infirm or disabled,

Compensation of campaign managers, public speakers and secret propagandists, and of field, district and county agents and solicitors, many of said defendants being such,

Rent of offices and public halls,

Bribery of voters,

Expenses and compensation of Democratic obstructionist candidate,

Expenses and compensation of detectives,

Dinners, banquets and other entertainments given to persons influential in said State of Michigan;

No part of which said money would be money expended by said Truman H. Newberry, as such candidate, to meet or discharge assessments, fees, or charges made or levied upon candidates by the laws of said State, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), or for distributing letters, circulars, or posters, or for telegraph or telephone service, or for proper legal expenses in maintaining or contesting the results of said election:

Fourth, the offense on the part of said Truman H. Newberry of unlawfully and willfully filing said last mentioned false and unlawful statement and certificate with the Secretary of the Senate of the United States at Washington, District of Columbia, as and for the post-election statement and certificate required of a candidate for Senator in the Congress of the United States by said Acts of Congress, and as and for his the said Truman H. Newberry's sole and

only post-election statement and certificate under the requirement of said Acts, by depositing said false and unlawful statement and certificate last aforesaid in a Post Office of the United States within the time required by said Acts, directed to said Secretary of said Senate, duly stamped and registered, and thereby unlawfully and willfully violating the provisions of said Acts requiring him the said Truman H. Newberry, as such candidate for Senator from said State of Michigan in the Congress of the United States at said primary election, to file, within fifteen days after such primary election, a true and itemized account of moneys expended and used by his agent or representative, or by any other person, for and in his behalf, with his knowledge and consent, up to, on, and after the day of such primary election, for the purpose of procuring his nomination.

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present, that said Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O Turner, Frederick P. Smith, Elbert V. Chilson, William J. Mickel, Clarence L. Sibben, Mark T. McKee, James F. McGregor, and Frank W. Blair, defendants as aforesaid, according to said conspiracy were, on their part, to counsel and procure said Truman H. Newberry to commit said several offenses on his part mentioned in this count of this indictment, and were to aid and abet him in so doing.

Overt Acts.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that certain of said defendants, at the divers times and places in that behalf hereafter in this count of this indictment mentioned in connection with their respective names, did do certain acts to effect the object of said unlawful and felonious conspiracy, combination, confederation and agreement; that is to say:

1. Said Paul H. King, on April 1, 1918, at Detroit, Michigan, employed Roman F. Glocheski, at a salary of one hundred and fifty dollars per month, to work for said Truman H. Newberry in his said senatorial campaign.

2. Said Paul H. King, on June 1, 1918, at Detroit, Michigan, gave A. K. Moore one hundred dollars.

3. Said B. Frank Emery, on April 1, 1918, at Detroit, Michigan, gave John Cawood one hundred dollars.

4. Said Paul H. King, on April 1, 1918, at Detroit, Michigan, employed Rolla E. Prescott, at a large salary, to-wit, a salary of one hundred and fifty dollars per month for five months, to work in behalf of said Truman H. Newberry in his said senatorial campaign.

5. Said Charles A. Floyd, on April 1, 1918, at Grand Rapids, Michigan, gave George W. Welsh one hundred dollars.

6. Said Charles A. Floyd, on September 1, 1918, at Bellaire, Michigan, gave James Deevey fifty dollars.

7. Said Elbert V. Chilson, on August 1, 1918, at Detroit, Michigan, gave Daniel C. Laughlin one hundred dollars.

8. Said B. Frank Emery, at different times between May 1, 1918, and November 5, 1918, at Detroit, Michigan, gave Guy L. Ingalls, different sums of money, amounting in all to a large sum, to-wit, two thousand and seven hundred dollars.

9. Said Charles A. Floyd, on July 1, 1918, at Grand Rapids, Michigan, gave Elmer O. McLane one hundred dollars.

10. Said B. Frank Emery, on May 1, 1918, at Detroit, Michigan, gave Elmer O. McLane one hundred dollars.

11. Said Paul H. King, on May 1, 1918, at Detroit, Michigan, employed Elmer O. McLane at a large salary, to-wit, a salary of two hundred dollars per month to work for four months in assisting said Truman H. Newberry in his said senatorial campaign.

12. Said John M. Harris, on August 20, 1918, at Charlevoix, Michigan, gave Lisle Shannahan forty dollars.

13. Said John M. Harris, on July 1, 1918, at East Jordan, Michigan, gave Dwight H. Fitch forty-five dollars.

14. Said Charles A. Floyd, on July 1, 1918, at Grand Rapids, Michigan, gave Fred D. Keister two hundred dollars.

15. Said George W. Welsh, on August 20, 1918, at Grand Rapids, Michigan, gave Charles I. Nowrat eighty dollars.

16. Said Charles A. Floyd, on June 1, 1918, at Kalkaska, Michigan, gave Ed A. Nowack one ton of print paper valued at one hundred and twenty dollars.

17. Said Charles A. Floyd, on July 1, 1918, at Grand Rapids, Michigan, gave Ed A. Nowack fifty dollars.

18. Said Charles A. Floyd, on June 1, 1918, at Grand Rapids, Michigan, gave George C. Rogers fifty dollars.

19. Said Charles A. Floyd, on April 1, 1918, at Grand Rapids, Michigan, employed George C. Rogers at a large salary, to-wit, a salary of twenty-five dollars per week, to work as an agent and solicitor for said Truman H. Newberry in promoting his said senatorial campaign.

20. Said Charles A. Floyd, on July 1, 1918, at Ludington, Michigan, gave Charles Tufts four hundred dollars.

21. Said Paul H. King, on April 1, 1918, at Detroit, Michigan, gave Charles Tufts one hundred dollars.

22. Said William Calnon, on March 15, 1918, at Kalamazoo, Michigan, employed Harrison Merrill at a large salary, to-wit, a

salary of twenty-five dollars per week to do publicity work in behalf of said Truman H. Newberry in said primary senatorial campaign.

23. Said Judd Yelland, on August 27, 1918, at Escanaba, Michigan, gave said Henry Dotsch fifty dollars.

24. Said Charles A. Floyd, on June 1, 1918, at Grand Rapids, Michigan, employed William J. Mickel to induce James Helme to become a Democratic candidate at the forthcoming senatorial primary election.

25. Said Charles A. Floyd, from June 15, 1918, to August 27, 1918, paid William J. Mickel a large sum weekly, to-wit, fifty dollars, to be given to James Helme for becoming a Democratic senatorial candidate at the forthcoming primary election.

26. Said Paul H. King, on June 1, 1918, at Detroit, Michigan, employed Terry T. Corliss, at a large salary, to-wit, a salary of seventy-five dollars per week, to work for five months in behalf of said Truman H. Newberry in his said senatorial campaign.

27. Said B. Frank Emery, at four different times between April 1, 1918, and November 5, 1918, at Detroit, Michigan, gave George W. John one hundred dollars.

28. Said Milton Oakman, on March 6, 1918, at Detroit, Michigan, employed said Zalie B. Clago, at a large salary, to-wit, a salary of three hundred dollars per month, to take charge of the Wayne County headquarters of workers for said Truman H. Newberry in the forthcoming senatorial campaign.

29. Said Frank B. Emery and Harry Turner, from March 6, 1918, to November 5, 1918, paid Zalie B. Clago, a large sum of money, to-wit, eighteen hundred dollars, as his compensation for taking charge of the Wayne County headquarters of workers for said Truman H. Newberry in his said senatorial campaign, among other things.

30. Said Paul H. King, on May 5, 1918, at Detroit, Michigan, employed said Thomas P. Phillipa at a large salary, to-wit, a salary of one hundred dollars per week, to write newspaper articles and advertisements pertaining to the senatorial campaign of said Truman H. Newberry.

31. Said Judd Yelland and Henry Dotsch, on November 1, 1918, at Gladstone, Michigan, gave Philip Lewis five dollars.

32. Said Will S. Darling, on November 4, 1918, at Cross Village, Michigan, promised Peter T. Brady, a member of the election board, that he should be given "a good job" if he would assist said Truman H. Newberry at said general election by instructing Indian voters to vote for said Truman H. Newberry, and gave said Peter T. Brady ten dollars.

33. Said Will S. Darling, on November 4, 1918, at Cross Village, Michigan, requested John Wagley to use his influence as an election

officer to get Indian voters to vote at said general election for said Truman H. Newberry.

34. Said Will S. Darling, on November 5, 1918, at Cross Village, Michigan, gave John Wagley ten dollars.

35. Said Judd Yelland, on November 1, 1918, at Escanaba, Michigan, gave Henry Smith five dollars.

36. Said Roger M. Andrews, on November 1, 1918, at Menominee, Michigan, gave John Ladbeck ten dollars.

37. Said Frank D. McKay, on November 2, 1918, at Grand Rapids, Michigan, gave David Vander Meulen ten dollars.

38. Said Frank D. McKay, on October 20, 1918, at Grand Rapids, Michigan, gave Burt Kleukowski ten dollars.

Conclusion.

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that said defendants, continuously and at all times throughout said period of time, at and within said division and district, in manner and form aforesaid, unlawfully and feloniously did conspire to commit offenses against the United States, and certain of them did do acts to effect the object of the conspiracy: Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Second Count.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Truman H. Newberry, before and on November 5, 1918, was the candidate of the Republican Party for the election to the office of Senator in the Congress of the United States from said State of Michigan at the general election held in said State on said November 5, 1918, under the laws of said State, he the said Truman H. Newberry on that day having attained to the age of thirty years and upwards and been a citizen of the United States for more than nine years, and then being an inhabitant and resident of said State; and that said Truman H. Newberry, Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Mickel, Clarence L. Sibben, Mark T. McKee, James F. McGregor, and Frank W. Blair, hereinafter called defendants, continuously and at all times throughout the period of time from August 27, 1918, to and including December 5, 1918, at and within said Southern Division of said Western District of Michigan, unlawfully and feloniously did conspire, combine, confederate and agree together, and with divers other persons to said grand jurors unknown, to commit divers other offenses against the United States, to-wit:

First, the offense of perjury on the part of said Truman H. Newberry, to be committed by him by taking his oath before an officer authorized to administer oaths in a case in which a law of the United States authorized such oath to be administered, and thereupon willfully and contrary to such oath stating and subscribing material matters which he would not then believe to be true, that is to say, by taking an oath before such officer in and for verifying, for filing, as required by the Act of Congress approved June 25, 1910, and amended by the Acts of Congress approved August 19, 1911, and August 23, 1912, with the Secretary of the Senate of the United States, not less than ten nor more than fifteen days before the day for holding such general election, the statement and certificate of him the said Truman H. Newberry, subscribed by him, of expenditures and use of money for the purpose of procuring his election as such Senator at said general election, to the effect that no such expenditures or use of money had been made by his agent or representative, or by any other person, for him or in his behalf, with his the said Truman H. Newberry's knowledge or consent; which said statement and certificate, as each of said defendants would well know, would be a false and unlawful statement and certificate in this, that large sums of money, amounting together to upwards of two hundred thousand dollars would, before the day of such verification of such statement and certificate and after said August 27, 1918, have in fact been expended and used in said State of Michigan, with the knowledge and consent of said Truman H. Newberry, by agents and representatives of said Truman H. Newberry, to-wit, by said Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Mickel, Clarence L. Sibben, Mark T. McKee, James F. McGregor, and Frank W. Blair, and by divers other persons to said grand jurors unknown, for and in behalf of said Truman H. Newberry, and for the purpose of procuring his said election, to-wit, money for and on account, among other things, of the printing, after said August 27, 1918, and before the date of such verification of such last-mentioned statement and certificate, of a large number of advertisements, to-wit, one hundred thousand advertisements, in a large number of different newspapers, to-wit, seven hundred newspapers published between those dates in the different cities, towns and villages throughout said State of Michigan, each of said advertisements setting forth the fact of such candidacy of said Truman H. Newberry and extolling his qualifications for the office of Senator in the Congress of the United States from said State of Michigan, and money for and on account of—

Print-paper, cuts, plates and other supplies furnished to newspaper publishers,

Subscriptions to newspapers,

Production, distribution and exhibition of moving pictures,

Traveling and subsistence expenses of campaign managers, public speakers, secret propagandists, field, district and county agents and solicitors, and of voters not infirm or disabled,

Compensation of campaign managers, public speakers and sec propagandists, and of field, district and county agents and solicitors many of said defendants being such,

Rent of offices and public halls,

Bribery of election officials,

Unlawful assistance of election officials,

Bribery of voters,

Expenses and compensation of detectives,

Dinners, banquets and other entertainments given to persons influential in said State of Michigan;

No part of which said money would be money expended by said Truman H. Newberry, as such candidate, to meet or discharge assessments, fees, or charges made or levied upon candidates by the laws of said State, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), or for distributing letters, circulars, or posters, or for telegraph or telephone service, or for proper legal expenses in maintaining or contesting the results of said election

Second, the offense on the part of said Truman H. Newberry of unlawfully and willfully filing said false and unlawful statement and certificate last aforesaid with the Secretary of the Senate of the United States at Washington, District of Columbia, as and for the ante-election statement and certificate required of a candidate for Senator in the Congress of the United States by said Acts of Congress, and as and for his the said Truman H. Newberry's sole and only ante-election statement and certificate under the requirement of said Acts, by depositing said statement and certificate in a Post Office of the United States within the time required by said Acts, directed to said Secretary of said Senate, duly stamped and registered, and thereby unlawfully and willfully violating the provisions of said Acts requiring him the said Truman H. Newberry, as such candidate for Senator from said State of Michigan in the Congress of the United States at said general election, to file, not less than ten nor more than fifteen days before the day, to-wit, November 5, 1918, for holding such general election, a true and itemized account of moneys expended and used by his agent or representative, or by any other person, for and in his behalf, with his knowledge and consent, for the purpose of procuring his election:

Third, the offense of perjury on the part of said Truman H. Newberry, to be committed by him by taking his oath before an officer authorized to administer oaths in a case in which a law of the United States authorized such oath to be administered, and thereupon willfully and contrary to such oath stating and subscribing material matters which he the said Truman H. Newberry would not then believe to be true; that is to say, by taking an oath before such officer in and for verifying, for filing, as required by said Acts of Congress, with the Secretary of the Senate of the United States within thirty days after such general election, the statement and certificate of him the said Truman H. Newberry, subscribed by him, of ex-

penditures and use of money for the purpose of procuring his election at said general election, to the effect that no such expenditures or use of money had been made by his agent or representative, or by any other person, for him or in his behalf, with his the said Truman H. Newberry's knowledge or consent; which said last-mentioned statement and certificate, as each of said defendants would well know, would be a false and unlawful statement and certificate in this, that large sums of money, amounting together to upwards of two hundred thousand dollars, would, before the day of such verification of such statement and certificate and after said August 27, 1918, have in fact been expended and used in said State of Michigan, with the knowledge and consent of said Truman H. Newberry, by agents and representatives of said Truman H. Newberry, to-wit, by said Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Mickel, Clarence L. Sibben, Mark T. McKee, Panes F. McGregor, and Frank W. Blair, and by divers other persons to said grand jurors unknown, for and in behalf of said Truman H. Newberry, and for the purpose of procuring his said election, to-wit, money for and on account, among other things, of the printing, after said August 27, 1918, and before the date of such verification of such statement and certificate, of a large number of advertisements, to-wit, one hundred thousand advertisements, in a large number of different newspapers, to-wit, seven hundred newspapers published between those dates in the different cities, towns and villages throughout said State of Michigan, each of said advertisements setting forth the fact of such candidacy of said Truman H. Newberry and extolling his qualifications for the office of Senator in the Congress of the United States from said State of Michigan, and money for and on account of—

Print-paper, cuts, plates and other supplies furnished to newspaper publishers,

Subscriptions to newspapers,

Production, distribution and exhibition of moving pictures,

Traveling and subsistence expenses of campaign managers, public speakers, secret propagandists, field, district and county agents and solicitors, and of voters not infirm or disabled,

Compensation of campaign managers, public speakers and secret propagandists, and of field, district and county agents and solicitors, many of said defendants being such,

Rent of offices and public halls,

Bribery of election officials,

Unlawful assistance of election officials,

Bribery of voters,

Expenses and compensation of detectives,

Dinners, banquets and other entertainments given to persons influential in said State of Michigan;

No part of which said money would be money expended by said Truman H. Newberry, as such candidate, to meet or discharge assessments, fees or charges made or levied upon candidates by the

laws of said State, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), or for distributing letters, circulars, or posters, or for telegraph or telephone service or for proper legal expenses in maintaining or contesting the result of said election;

Fourth, the offense on the part of said Truman H. Newberry of unlawfully and willfully filing said last-mentioned false and unlawful statement and certificate with the Secretary of the Senate of the United States at Washington, District of Columbia, as and for the post-election statement and certificate required of a candidate for Senator in the Congress of the United States by said Acts of Congress and as and for his the said Truman H. Newberry's sole and only post-election statement and certificate under the requirement of said Acts, by depositing said false and unlawful statement and certificate last aforesaid in a Post Office of the United States within the time required by said Acts, directed to said Secretary of said Senate, duly stamped and registered, and thereby unlawfully and wilfully violating the provisions of said Acts requiring him the said Truman H. Newberry, as such candidate for Senator from said State of Michigan in the Congress of the United States at said general election, to file within thirty days after such general election, a true and itemized account of moneys expended and used by his agent or representative or by any other person, for and in his behalf, with his knowledge and consent, up to, on, and after the day of such general election, for the purpose of procuring his election.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry J. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Mickel, Clarence L. Sibley, Mark T. McKee, James F. McGregor and Frank W. Blair, defendants as aforesaid, according to said conspiracy were on their part, to counsel and procure said Truman H. Newberry to commit said several offenses on his part mentioned in this count of this indictment, and were to aid and abet him in so doing.

Overt Acts.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that certain of said defendants, at the divers times and places in that behalf in the first count of this indictment mentioned in connection with their respective names, did do certain acts to effect the object of the unlawful and felonious conspiracy, combination, confederation and agreement in this count described, that is to say, the acts set forth in said first count, under the heading "Overt Acts," numbered 1 to 38, the same being here again alleged and charged, by reference to said first count, to the same extent as if they were herein repeated and set forth.

Conclusion.

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that said defendants, continuously and at all times throughout the period of time in this count mentioned, at and within said division and district, in manner and form in this count aforesaid, unlawfully and feloniously did conspire to commit offenses against the United States, and certain of them did do acts to effect the object of the conspiracy; Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

FRANK C. DAILEY,
Special Assistant to the Attorney General.

H. DALE SOUTER,
Special Assistant to the Attorney General.
OLIVER E. PAGAN,
Special Assistant to the Attorney General.

[Endorsed:] No. 1847. United States District Court, Western District of Michigan, Southern Division. The United States of America vs. Truman H. Newberry and 17 others et al. Indictment on Sec. 37, Criminal Code. Conspiracy to Violate Act June 25, 1910, as Amended, and Sec. 125, Criminal Code. A True Bill, Robert H. Sherman, Foreman. Filed this 29th day of November, A. D. 1919. Chas. J. Potter, Clerk.

In the United States District Court for the Western District of Michigan, Southern Division.

THE UNITED STATES OF AMERICA

vs.

TRUMAN H. NEWBERRY and 134 Others.

Demurrer to Indictment on Secs. 37 and 332 U. S. Criminal Code; Conspiracy to Violate Act of June 25, 1910, as Amended, Act Oct. 16 1918, and Sec. 215 U. S. Criminal Code.

And the said Truman H. Newberry, Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Mickel, Clarence L. Sibben, Mark T. McKee, James F. McGregor, Frank W. Blair, William L. Calnon, Zalie B. Clago, Roger M. Andrews, Judd Yelland, Louis Burr, Richard H. Fletcher, Alexander C. Green, Frank O. Gilbert, George S. Ladd, Edward O. McLean, Benjamin F. Reed, Charles Tufts, Arthur H. Wentz, Terry T. Corliss, Roman F. Glocheski, William T. Hosner, William E. Rice, James R. David, James W. Helme, James B. Haskins, Harri-

son Merrill, Elmer E. Smith, Fred Henry, Charles A. Campbell, John M. Harris, George W. John, J. Scott Hunter, George E. Rogers, Wirt O'Connell, George W. Webb, Lewis L. Thompson, Allan K. Moore, William B. Wilson, Clyde J. Watt, William H. Smith, Jr., Myron J. Sherwood, Timothy H. Ryan, Edward Nowack, Daniel C. Laughlin, Frank Gorman, August Field, Frank L. Covert, James B. Burns, Neal R. Walsh, Judd Byrne, Emory Mills, Fred L. Keister, James F. Fisher, Henry R. Deitsch, James Dailey, Albert H. Burger, Charles L. Carpenter, Charles H. Farrell, Frank D. McKay, Thaddeus C. Sedey, Thomas Bigger, Edward W. Fehling, Frank Fee, Reba E. Provost, Robert Tetro, Dan Kennedy, John Cawood, William Connelly, Fay G. Dunning, James B. Bradley, Edwin Goodwin, Fred W. Castator, Earl J. Davis, Fred K. Croneweett, Ray I. Colwell, Charles V. DeLand, Will S. Darling, Christian J. Broeg, Gladstone R. Beattie, Karl B. Matthews, Fred M. Northrup, James Swain, Joshua L. Boyd, Benjamin Gero, Anton Bushak, Foster Cameron, Guy L. Ingalls, E. Bruce Laing, De Witt Brown, Henry Myers, William Trebilcock, John W. Dunn, William S. Crosbie, Archie Anderson, Glenn L. Williams, Carlos A. Reading, Fay Woodworth, Carl Meuier, Earl Fairbanks, Frank P. Behn, John Jones, Elmer E. White, Silas J. McGregor, William E. Lewis, Edward J. Bowman, Dudley C. Hook, Ernest C. Smith, John C. Rittenhouse, Alfred F. Crawford, Mell R. Dee, Willis V. Capron, William Priedeau, James Deevey, George Carrigan, John Wagley, Claud Vandervoen, Albert Taylor, Hugh Maddigan, John P. Hewitt, Frederick H. Derrick, Peter T. Brady and Samuel Odell, come into court here, and having heard the said indictment read, each of the said defendants says, severally and separately, that the same and the matters therein contained, in manner and form as the same are therein stated and set forth, are not sufficient in law, and that he is not bound by the law of the land to answer the same.

And for specific and special causes of demurrer to the said indictment, the defendants above named, each for himself, severally and separately, assigns the following objections thereto:

1. The acts described and set forth in the first count do not constitute a crime under the laws of the United States.

2. The acts described and set forth in the second count do not constitute a crime under the laws of the United States.

3. The acts described and set forth in the third count do not constitute a crime under the laws of the United States.

4. The acts described and set forth in the fourth count do not constitute a crime under the laws of the United States.

5. The acts described and set forth in the fifth count do not constitute a crime under the laws of the United States.

6. The acts described and set forth in the sixth count do not constitute a crime under the laws of the United States.

. The Congress is without power under the Constitution of United States to constitute any of the acts described and set forth he first count a crime against the United States.

. The Congress is without power under the Constitution of the ted States to constitute any of the acts described and set forth he second count a crime against the United States.

. The Congress is without power under the Constitution of the ted States to constitute any of the acts described and set forth he third count a crime against the United States.

. The Congress is without power under the Constitution of the ted States to constitute any of the acts described and set forth in fourth count a crime against the United States.

1. The Congress is without power under the Constitution of the ted States to constitute any of the acts described and set forth he fifth count a crime against the United States.

2. The Act of Congress approved June 25, 1910, as amended the Acts of August 19, 1911, and August 23, 1912, in so far as it dertakes to constitute any of the acts described and set forth in first count a crime against the United States, was enacted with- and in excess of any power conferred upon the Congress by the nstitution of the United States, and is void of no effect.

3. The Act of Congress approved June 25, 1910, as amended the Acts of August 19, 1911, and August 23, 1912, in so far as ndertakes to constitute any of the acts described and set forth in second count a crime against the United States, was enacted with- and in excess of any power conferred upon the Congress by the nstitution of the United States, and is void and of no effect.

4. The Act of Congress approved June 25, 1910, as amended the Acts of August 19, 1911, and August 23, 1912, in so far as ndertakes to constitute any of the acts described and set forth the third count a crime against the United States, was enacted thout and in excess of any power conferred upon the Congress by e Constitution of the United States, and is void and of no effect.

5. The Act of Congress approved June 25, 1910, as amended the Acts of August 19, 1911, and August 23, 1912, in so far as ndertakes to constitute any of the acts described and set forth the fourth count a crime against the United States, was enacted thout and in excess of any power conferred upon the Congress by e Constitution of the United States, and is void and of no effect.

6. The Act of Congress approved June 25, 1910, as amended the Acts of August 19, 1911, and August 23, 1912, in so far as it dertakes to constitute any of the acts described and set forth in e fifth count a crime against the United States, was enacted with- and in excess of any power conferred upon the Congress by the nstitution of the United States, and is void and of no effect.

17. The said Act, as so amended, if construed so as to constitute any of the acts described and set forth in said indictment crimes against the United States, violates Article 9 of the Amendments to the Constitution of the United States in that, being so construed, it denies and disparages the sovereign right of the State of Michigan and its people to legislate or enforce legislation in respect of the matters which are the subject of the said Act, and its amendments, which right was retained by the State of Michigan and its people when that State was admitted by the Congress into the Union.

18. The said Act violates Article 10 of the Amendments to the Constitution of the United States in that thereby the power to legislate and enforce legislation in respect of the matters which are the subject of the said Act was not delegated to the United States by the Constitution, nor prohibited by it to the States, but was reserved to the States, respectively, or to the people.

19. The said Act is unconstitutional because the Congress is without power and authority to enact laws regulating the acts and conduct of a citizen of a state who may become a candidate at a nominating convention primary election or general election.

20. The said Act is unconstitutional because Congress is without power or authority to enact laws which add to the qualifications of members of the House or the Senate, prescribed in Sections 2 and 3 of Article I of the Constitution of the United States.

21. The said Act is unconstitutional because Congress is without power or authority to fix as a maximum sum to be expended by a candidate a sum not in excess of that permitted by the laws of the State in which the candidate lives, when such maximum so fixed by the State differs radically in amount, each State from the other.

22. The said Act is unconstitutional because Congress is without power and authority to arbitrarily fix as a maximum amount to be expended by a candidate for Senator the sum of $10,000 without regard to the diverse and dissimilar conditions obtaining and prevailing in each of the forty-eight States, thus grossly discriminating between each of the members of same class.

23. The said Act is unconstitutional because it is beyond the power and authority of Congress under the pretense of making regulations for the manner of holding elections for the office of Senator, to include within such regulations the pre-election devices of nomination and primary election and the individual conduct of the candidate preceding such an election.

24. The fifth count of the indictment is insufficient because, while it omits to set forth the names of any of the one thousand persons to whom the defendants are alleged to have conspired to give money and things of value to vote for the defendant, Truman H. Newberry at said election, and also the names of any of the one thousand other persons to whom the defendants are alleged to have conspired to give money and things of value to withhold his vote from said

Henry Ford at the said election, and also the times and places when and where the defendants are alleged to have conspired to give such money and things of value, no reason is alleged for such omissions.

25. The sixth count of the indictment does not state facts constituting an offense against the laws of the United States, and particularly against Section 37 of the Criminal Code, in that the Act which it is charged the defendants conspired to violate, to wit, Section 215 of the Criminal Code, was never intended to apply to elections, and the facts set forth in said count as being in violation of Section 215 do not constitute such a fraud upon the people of the State of Michigan or upon the candidate for office, or upon the counties of the State of Michigan, or upon the candidates for county and state offices, as falls within either the terms or purposes of the said Section 215.

And this he is ready to verify.

Wherefore, for want of sufficient indictment in this behalf, each of the said defendants, severally and separately, prays judgment that by the Court he may be dismissed and discharged from the said premises in the said indictment specified.

November 29, 1919.

J. O. MURFIN,
Attorney for the Above Defendants.

GEORGE E. NICHOLS,
MARTIN W. LITTLETON,
Of Counsel.

[Endorsed.] In the United States District Court for the Western District of Michigan, Southern Division. The United States of America vs. Truman H. Newberry and 134 others. Demurrer to indictment on Secs. 37 and 332 U. S. Criminal Code; Conspiracy to violate Act of June 25, 1910, as amended Act Oct. 16, 1918, and Sec. 215 U. S. Criminal Code. James O. Murfin, Attorney for the above Defendants. George E. Nichols, Martin W. Littleton, Of Counsel. Rec'd Dec. 28 and Filed Dec. 29/19. Chas. J. Potter, Clerk. Original.

In the District Court of the United States for the Western District of Michigan, Southern Division.

At a Session Held January 12, 1920.

No. 1848.

THE UNITED STATES

vs.

TRUMAN H. NEWBERRY and 134 Others.

Indictment—Conspiracy.

This cause having been heretofore heard upon the demurrer of the defendants to the indictment herein, and argued by the counsel for the United States and the defendants herein, and submitted and now fully considered, it is found and adjudged that the said indictment is good and sufficient in law, and it is therefore ordered that the said demurrer be and the same is hereby overruled, and that the defendants answer to and stand trial thereon upon the respective pleas of not guilty entered by and in behalf of the said defendants.

[Endorsed:] Order Overruling Demurrer.

UNITED STATES OF AMERICA,
Western District of Michigan,
Southern Division, ss:

At a session of the District Court of the United States for the Western District of Michigan, continued and held at the City of Grand Rapids, on the twenty-seventh day of January, in the year of our Lord, one thousand nine hundred and twenty and of the Independence of the United States of America, the one hundred and forty-fourth.

Present, the Honorable Clarence W. Sessions, District Judge.

Among the proceedings then and there had were the following, to-wit:

No. 1848.

THE UNITED STATES

vs.

TRUMAN H. NEWBERRY and 134 Others.

Indictment—Conspiracy.

This cause being called for trial the United States by the Assistant Attorney General, Frank C. Dailey, announced itself ready for trial and all of the defendants were present in person except Willis V. Capron, James Deevey, Frank Guinan, Ernest Smith, Albert Taylor, Elmer E. White and John Wagley, and said absent defendants being represented in Court by their respective attorneys, it appeared that said absent defendants were detained by storms en route.

The defendants by their counsel presented and placed on file a challenge to the array of jurors, and the same having been considered by the Court, it was ordered that the same be overruled and denied.

The defendant B. Frank Emery being present in open court showed to the court that because of his physical condition, it would be dangerous for him to remain in constant attendance upon the trial, and applied to the court for leave to absent himself from such attendance until his health became such as to make it safe for him to attend, and with such application the said defendant, Emory, in open court waived his rights to be present at the empanneling of the jury, and the proceeding of the trial and consented that the trial of the cause might so proceed as if he were present; whereupon, the application of the said defendant was granted subject to the further order of the court.

Because of the absence of certain defendants as above recorded, it was ordered that the further trial of the cause be postponed until January 28th, 1920, at which time it was ordered that all defendants be present in court.

UNITED STATES OF AMERICA,
Western District of Michigan,
Southern Division:

District Court of the United States.

THE UNITED STATES

vs.

TRUMAN H. NEWBERRY et al.

Challenge to Array.

That on the 16th day of December, 1919, the Court made in this cause the following order:

THE UNITED STATES OF AMERICA,
Western District of Michigan,
Southern Division, ss:

At a Session of the District Court of the United States for the Western District of Michigan, continued and held at the City of Grand Rapids, on the 16th day of December in the year of our Lord, one thousand nine hundred and nineteen and of the Independence of the United States of America, the one hundred and forty-fourth.

Present, the Honorable Clarence W. Sessions, District Judge.

Among the proceedings then and there had were the following, to-wit:

In the Matter of the Traverse Jury for the Present December Term.

The number of traverse jurors in attendance upon the court having been largely decreased by necessary discharge of jurors and exigencies of the business of the term requiring the attendance of a large additional number of qualified jurors, it is ordered that there be drawn from the jury box in the manner prescribed by law and the rules of the court, the names of 150 qualified jurors, and that a venire be issued summoning said additional jurors to attend the court on January 26, 1920, at 10 A. M.

II. That after said jury list was prepared, the court, on its own motion, and without the consent or knowledge of the defendants, or any of them, or of their attorneys, caused to be endorsed upon the summons and all copies thereof, the following statement or order:

In the Matter of Traverse Jurors, ss.

It is ordered that every person summoned to attend this court as a Traverse Juror shall from the time he receives notice of having been drawn as a juror, refrain from discussing with anyone any cause or the facts of merits of any cause then pending in this court and no juror so drawn shall permit any other person to discuss with him or in his presence any such cause or any matter or thing pertaining thereto; and it shall be the duty of each juror to report at once to this court any attempt of any person to discuss such matters with him or in his presence.

The Marshal shall cause this order to be printed upon all notices sent to traverse jurors.

III. That after the summons had been issued for said extra or special venire, the court, on its own motion and without the consent or knowledge of the defendants, or of their attorneys, prepared and caused to be sent to each person so summoned the following question-aire:

1. "What is your age?

2. Are you in good health?

3. What is your occupation?

4. Are you a full citizen of the United States and a resident of this Judicial District?

5. Do you claim to be exempt from jury service under the laws of the State of Michigan?

6. If so, upon what ground?

7. Have you served as a juror in any court of record (State or Federal) during the year 1919? If so, in what court?

8. Are you an officer or employe of the United States or of the State of Michigan or of any county or municipality in this state. If so, state the positions held by you.

9. Are you related to any of the respondents in the case of United States vs. Truman H. Newberry and others, now pending in this court? If so, to whom and what is the relationship?

10. Are you a close or intimate friend of any of the respondents in the case of United States vs. Truman H. Newberry and others? If so, name such respondent.

11. Are you directly or indirectly associated in business with any of the respondents in the case of United States vs. Truman H. Newberry and others? If so, state the nature and character of such business.

12. Were you a candidate for any office (National, state, county or Municipal) in the primary or general election in the fall of 1918? If so, what office?

13. Were you active in the political campaign (Primary or general election) of 1918? If so, state briefly the nature and extent of your activity.

14. Were you active in behalf of any candidate (Republican or Democrat) for the office of United States Senator in either the Primary election or the General election of 1918? If so, state briefly the nature and extent of your activity.

15. Are your family, personal or business affairs in such condition that entirely aside from the expense of your maintenance while serving as a juror, which will be provided for, your attendance in court and consequent absence from home during a considerable period of time will necessarily result in serious, unavoidable and irreparable loss of injury?

If you answer this question in the affirmative state briefly your reasons for so doing.

16. Please state any other fact or circumstance relating to your qualification to act as a juror in the case of United States vs. Tru-

man H. Newberry and others which you believe ought to be considered."

Together with the following letter:

"Grand Rapids, Mich., Dec. 22, 1919.

DEAR SIR:

Your are earnestly requested to fill out and sign the inclosed questionnaire and to mail the same as soon as possible in the addressed envelope also enclosed. These questions are not intended in any sense as an inquisition but are designed solely for the purpose of avoiding and preventing trouble and annoyance, saving expense, time and labor and securing a fair, impartial and unprejudiced jury for the trial of a most important case. To these ends your hearty cooperation is solicited.

In answering these questions and particularly Question No. 14 it should be borne constantly in mind that jury service is one of the most important duties of good citizenship. Mere inconvenience, even though serious, is not sufficient ground for excuse or release from such service. Only imperative necessity can be considered.

Respectfully,

C. W. SESSIONS,
United States District Judge."

IV. That thereafter, in compliance with the request of the Hon. Clarence W. Sessions, District Judge, the persons who had been so summoned and received the aforesaid communications and question-aires, replied thereto and based upon their said replies, the court, on its own motion and without the consent or knowledge of the defendants, or their attorneys, proceeded to and did excuse from jury service in this case, one hundred and two of said persons so summoned for many different reasons and causes, to wit: that such juror was an officer or employe of the United States or of the State of Michigan or of some county of municipality in this state, or because of the relationship of said juror to some of the respondents, or because of intimate friendship with some of the respondents, or because of business associations with some of the respondents, or because said juror was a candidate for national, state, county or municipal office in the primary or general election in the Fall of 1918, or because said juror was active in the political primary or general campaign of 1918, or because said juror was active in behalf of some candidate for the office of United States Senator in the primary or general election of 1918, or because of family, personal or business affairs, and from other facts or circumstances relating to their qualifications as appears by said question-aires on file.

V. That afterwards on the 22nd day of December, 1919, the clerk of this court sent to the clerks of the different counties within this district a letter as follows:

"Grand Rapids, Mich., Dec. 22, 1919.

DEAR SIR:

Judge Sessions is very desirous of procuring lists of jurors who are representative men of the community from which they come and at the same time persons legally competent to perform jury duty. Those exempt from jury duty in this court are the same as are exempt by the state law and are enumerated in the annexed circular. From your position in your community you are well qualified to give us the desired kind of men and we feel sure that you will do so. The law does not provide any compensation for this service but very properly considers it the duty of good citizens to see that good men are provided as jurors to try the rights of citizens in our courts.

Yours truly,

CHAS. J. POTTER,
Clerk.

And the different county clerks within said district, except the county of Kent, upon whose clerk no such request was made, returned to said District Clerk the names of certain persons whom said clerks deemed qualified for jury duty in this cause, and the jury commissioner of this court sent requests to certain friends and acquaintances of his throughout said district, asking that such person or persons return to him a list of persons for jury duty in this cause, which request was complied with and such names were returned as said friends and acquaintances of the said jury commissioner deemed qualified for jury duty in this cause.

VI. That after the return of such names the Clerk of the Court and the said jury commissioner, without change or alteration of said lists and accepting the judgment and opinion of said county clerks and the aforesaid friends and acquaintances of said jury commissioner as to the qualifications of such persons, placed the names of the same in a box and without any order of the court of record in regard thereto, proceeded with the marshal*l* to draw therefrom two hundred names to make up and comprise a second special venire and summons were issued and the endorsement aforesaid made thereon and the same was thereupon served, and thereafter the Hon. Clarence W. Sessions, District Judge, proceeded to and did send to each of said persons *to* summoned as aforesaid, the said question-aire and letter before mentioned, to which said persons generally replied and thereupon, without the consent or knowledge of the defendants or their attorneys, the court, on its own motion, based upon the replies to said question-aire, excused one hundred eighteen of said second venire for the same reasons as set forth in the fourth paragraph of this challange, all of which will fully appear by the records or by the question-aire on file in this court.

VII. That the original or regular panel for the present term of said court had been reduced to twenty-one jurors who were excused after the regular business of said court, requiring of said juror jury

duty, and afterwards the said court, on its own motion and without the consent or knowledge of the said defendants or their attorneys excused for different reasons thirteen of said regular panel.

VIII. That on the nineteenth day of January, 1920, the court made and entered the following order:

"THE UNITED STATES OF AMERICA,
Western District of Michigan,
Southern Division, ss:

At a Session of the District Court of the United States for the Western District of Michigan continued and held at the City of Grand Rapids, on the nineteenth day of January, in the year of our Lord, one thousand nine hundred and twenty and of the Independence of the United States of America, the one hundred and forty fourth.

Present, The Honorable, Clarence W. Sessions, District Judge.

Among the proceedings then and there had were the following, to-wit:

In the Matter of the Traverse Jury for the Present December Term.

The number of Traverse Jurors in attendance upon the court having been largely decreased by necessary excuses of jurors, and the exigencies of the business of the term requiring the attendance of a large additional number of qualified jurors, it is ordered that there be drawn from the Jury Box in the manner prescribed by law and the rules of the court, the names of 200 qualified jurors, and that a venire be issued summoning said additional jurors to attend the court on January 26, 1920, at 10 A. M.

The foregoing order having been made by the Court on January 3rd, 1920, and pursuant thereto, the Marshal, in the presence of the Jury Commissioner and the Clerk, having drawn from the Jury Box the names of two hundred additional jurors on January 5th, 1920, and a venire having been issued on said last named date as so ordered, and said order having failed of entry upon the Journal of that date by the omission of the Clerk, it is ordered that the same be now entered nunc pro tunc as of said January 3, 1920."

IX. That the array now presented for the selection of a jury to try this cause is comprised of those persons not excused by the court as aforesaid, and constituting a part of the list of the so-called first and second special or extra venire, members of the regular panel, to which array the defendants, by their counsel, hereby interpose the following challanges:

1. That the court had no authority to excuse any of the persons mentioned in the said first extra venire list upon its own motion and without giving and granting to said defendants and their said counsel an opportunity to examine said accused persons upon their

oath as to their qualifications and competency to sit as jurors in said cause.

2. That the court had no authority to excuse any of those persons on the second extra venire list upon its own motion and without giving to said defendants and their counsel an opportunity to examine said excused persons upon their oath as to their qualifications and competency to sit as jurors in said cause.

3. That the court had no authority to excuse any of those persons on the regular panel, under the facts of this case, without giving the said defendants and their counsel an opportunity to examine said excused persons upon their oath as to their qualifications to sit as jurors in said cause.

4. That the court was not authorized to endorse upon the summons a warning or notice to said jurors as therein stated, and that by reason thereof such notice or warning tended to prejudice and bias said veniremen, against the defense under the facts and circumstances in said cause.

5. That the District clerk and jury commissioner could not and did not legally, and according to the statute in such case made and provided, proceed to obtain lists of persons for jury service in this cause.

6. That the lists of persons from whom the jurors are to be drawn and constituting the present array, were not selected by the persons designated by law to select such lists.

7. For the reasons aforesaid the defendants challenge the array, and move that said array be discharged and excused from further duty in this cause.

MARTIN W. LITTLETON,
JAMES O. MURFIN,
GEORGE E. NICHOLS,
Attorneys for Defendants.

[Endorsed:] United States of America. The United States District Court for the Western District of Michigan, Southern Division. The United States, Plaintiff, vs. Truman H. Newberry et al., Defendants. Challenge to Array. Filed Jan. 27 '20. Chas. J. Potter, Clerk. Martin W. Littleton, James O. Murfin, George E. Nichols, Attorneys for Defendants. Business Address, 219-220 Houseman Building, Grand Rapids, Michigan.

UNITED STATES OF AMERICA:

In the District Court of the United States for the Western Dist
of Michigan, Southern Division.

THE UNITED STATES

vs.

TRUMAN H. NEWBERRY et al., Respondents.

Requests to Charge by Mr. Littleton.

1.

The indictment in this case charges but one offense against
laws of the United States, and that is the offense of conspiracy.
are not permitted to pass upon or consider any other offense than
charge of conspiracy, and you cannot render a verdict against
person charged in the indictment for any other offense than tha
conspiracy. You are not permitted to consider the folly, waste
ness or wrongdoing, if any, of any individual respondent, unless
folly, wastefulness or wrongdoing, if any, has a legitimate tende
to establish the crime charged in the indictment, that is, the cr
of conspiracy.

2.

The indictment as presented charges the respondents in six
rate counts with the crime of conspiracy, but I charge you that
are not to consider under any circumstances any counts in the ind
ment except those known as the first and fourth, and which, for
purposes of this trial, I have ordered consolidated. The other co
have been withdrawn by direction of the Court from the consid
tion of the jury, and you will disregard any knowledge you
have obtained during the trial of these counts, or any reference h
tofore or hereafter made to them.

3.

The first and fourth counts, as consolidated into one count, in
stance charge that the defendants did unlawfully and felonio
conspire, combine, confederate and agree together to commit an
fense against the United States, and you may not find any respo
ent guilty of any other offense than that specifically charged in
indictment.,

4.

The offense with which the respondents are charged, that is,
unlawful and felonious con-piracy, is one which it is charged had
its object the violation of an act of Congress and its amendme

This act of Congress, insofar as it has any application to the charge in the indictment, in substance is as follows:

"No candidate for senator of the United States shall give, contribute, expend, use or promise, or cause to be given, contributed, expended, used or promised, in procuring his nomination and election, any sum in the aggregate in excess of the amount which he may lawfully give, contribute, expend or promise under the laws of the state in which he resides; provided, that no candidate for senator of the United States shall give, contribute, expend, use or promise any sum in the aggregate exceeding ten thousand dollars in any campaign for his nomination and election."

Your attention is specifically directed to the fact that no one of the respondents is charged with having violated this act of Congress; but the charge in the indictment, and the only charge in this indictment, is that the respondents unlawfully and feloniously did conspire, confederate and combine to violate the statute above set out, and you are specifically instructed that if you should find that any one or more of the respondents did violate the statute above set out, it would not justify you in returning a verdict of guilty.

5.

In order to justify you in returning a verdict of guilty against one or more of the respondents under the indictment herein being tried, the evidence must satisfy you beyond a reasonable doubt that two or more of the respondents did unlawfully and feloniously conspire, confederate and combine, with an evil design and a criminal purpose, that Truman H. Newberry should wilfully and unlawfully, give, contribute, expend and use, or cause to be given, contributed, expended and used, for the purpose of procuring his nomination and election as United States Senator from the State of Michigan, a sum of money in the aggregate in excess of the amount which he might lawfully give, contribute, expend or promise under the laws of the State of Michigan, or a sum in the aggregate exceeding ten thousand dollars.

6.

You are instructed that there is no direct evidence from which you could infer that Truman H. Newberry did contribute, use, expend or promise any sum of money in excess of the amount permitted by the laws of Michigan or the act of Congress, and your inquiry must be solely directed to the question,—Does the evidence satisfy me beyond a reasonable doubt that two or more of the respondents unlawfully and feloniously conspired, combined and agreed together that Truman H. Newberry should contribute, expend, give, use or promise, or cause to be contributed, expended, given, used or promised, a sum of money in the aggregate in excess of the amount permitted by the laws of Michigan or the act of Congress. If you are satisfied from the evidence, beyond a reasonable doubt, that two or more respondents did so unlawfully and feloniously conspire, combine, con-

federate and agree together that Truman H. Newberry should co
tribute, give, expend, use or promise, or cause to be contributed, us
or promised, a sum in the aggregate in excess of the amount pe
mitted by the laws of Michigan or the acts of Congress, it would n
be necessary for you to find that one or more of the respondent
actually violated the laws of the State of Michigan or the acts o
Congress.

7.

You are instructed that the act of Congress heretofore set out a
which it is claimed the respondents unlawfully and feloniously co
spired to violate is an act which directly and exclusively relates t
the contribution of money by the candidate himself, or the consi
of contributions of money by the candidate himself. Congress ha
not assumed to take jurisdiction of or legislate upon the question
to how much money may be expended and used in a campaign fo
the nomination and election of a senator if and when such mone
so used and expended is voluntarily contributed by others than th
candidate himself.

8.

If you should find from the evidence that there was no conspira
between two or more of the respondents, having for its object the vi
lation of the act of Congress in question that Truman H. Newberr
should give, use, expend or promise a sum of money larger than
permitted by the laws of Michigan or the acts of Congress, you mu
next consider whether you are satisfied beyond a reasonable doub
from the evidence in the case, that two or more of these respondent
unlawfully and feloniously conspired, combined, confederated an
agreed together that Truman H. Newberry should cause to be given
contributed, used, expended or promised more money than he as
candidate for senator was permitted by the laws of Michigan or th
acts of Congress to cause to be contributed, given, used, promised o
expended, and in considering that question and in prosecuting thi
inquiry, you must, in testing out whether there was a conspiracy
that Truman H. Newberry should cause to be contributed, given
used, expended or promised, money in excess of the amount permit
ted by the laws of Michigan and the act of Congress, determine fro
the evidence in the case, First, whether there was such a conspiracy
confederation or agreement; Second, whether it had for its specifi
object the causing to be contributed, given, promised or used throug
and by Truman H. Newberry of money in excess of the amount al
lowed by law; and you are instructed that in considering the questio
as to whether Truman H. Newberry did cause to be contributed
given, used and expended or promised money in excess of the amoun
permitted by the laws of Michigan or the acts of Congress, that h
must have been the direct and procuring cause for the contribution
expenditure, use, promise and giving of such money; that it is no
enough that his mere candidacy may have resulted in the voluntary
contribution to the support of that candidacy by others; it is no

enough that those closely associated with him in family or business life should have been impelled by reasons of friendship or relationship to have voluntarily contributed to the expense of his candidacy; but it is absolutely necessary, in reaching any conclusion as to whether Truman H. Newberry caused to be given, contributed, used or expended any money to defray the expense of his campaign, that you should find that he directly procured contributions to be made for the purpose of defraying those expenses, and in no event are you to consider the question as to whether Truman H. Newberry did cause money to be contributed, given, expended, used or promised, except for the purpose of determining whether prior to that time he and one or more of the respondents had unlawfully and feloniously conspired, combined, confederated and agreed that such causing of contributions and expenditures of money should be done and that this was the specific object of their conspiracy.

9.

I instruct you that to warrant a conviction of these respondents, or any of them, the Government must have established by evidence beyond a reasonable doubt each and every essential element and ingredient of the crime charged. In other words, to warrant a conviction the Government must have so established First, that the respondents, or two or more of them, entered into the alleged unlawful conspiracy and agreement; Second, that the object or purpose of such conspiracy was that Truman H. Newberry should give, contribute, expend, use or promise, or cause to be given, contributed, expended, used and promised in the aggregate a sum of money to procure his nomination and election to the United States Senate in excess of the amount permitted by the laws of Michigan or the acts of Congress; Third, that after the conspiracy was formed and entered into, one of more of the defendants committed an act or acts to effect the object of the conspiracy; and in that connection I charge you that the evidence must be such as to exclude every single reasonable hypothesis except that of the guilt of the respondents. In other words, all of the facts proved must be consistent with and point to the guilt of the respondents, and must be inconsistent with their innocence, and it matters not how clearly the circumstances might point to guilt, still if they are reasonable and explainable on a theory which excludes guilt, then it cannot be said that the facts in the case are sufficient to satisfy the jury beyond a reasonable doubt of the guilt of the respondents, and in that event your verdict should be "Not Guilty."

10.

If, after consideration of the whole case, any one of the jury should entertain a reasonable doubt of the guilt of the defendants, it is the duty of such juror not to vote for a verdict of guilty.

11.

Conspiracy, generally speaking, is an agreement between two or more persons to do an unlawful act. Conspiracy, under the laws of the United States, is an agreement between two or more persons to commit an offense against the United States. To constitute a conspiracy there need not be a formal agreement, either by writing or in words. In other words, it is sufficient to constitute a conspiracy if there is any understanding and a concert of action, if the conspirators knowingly act together with a common purpose, design and intent to do the unlawful act; that is, to commit an offense against the United States. The agreement to form a conspiracy must be established beyond a reasonable doubt. The minds of the alleged conspirators must have met in a common purpose, supported by concerted acts, and an express intent must have been formulated to have violated the act of Congress charged in this indictment.

In other words, you must be convinced that all or some of these respondents intended to form and did form a conspiracy that Truman H. Newberry should give, contribute, expend, use or promise, or cause to be given within the meaning of causing to be given, as heretofore charged, to procure his nomination and election a United States Senator, a sum of money in the aggregate in excess of the amount of money authorized by the laws of Michigan or the acts of Congress; but it is not sufficient for the Government to have proven conducts or acts on the part of any of the respondents which were not in pursuance of the conspiracy charged in the indictment, and you are not justified in finding two or more of the respondents guilty simply because they may have acted in concert with a common purpose. To warrant a conviction you must, in addition to that, find that they so acted knowingly and intentionally, with the specific purpose and intent that Truman H. Newberry should give, contribute, expend, use or promise, or cause to be given, contributed, expended, used or promised, to secure his nomination and election as United States Senator, a sum of money in the aggregate in excess of the amount permitted by the laws of Michigan or the acts of Congress.

12.

You are instructed that each respondent in this case is presumed by the law to be innocent until his guilt is established by proof which satisfied you beyond a reasonable doubt that he is guilty of the crime charged in the indictment. This presumption abides with each of these respondents throughout the case, until it is removed by the proof, and every material element necessary to make up the crime of conspiracy in this case must be established by like proof, satisfying you beyond a reasonable doubt of the existence of such conspiracy.

13.

A reasonable doubt is not a mere possible doubt, because everything relating to human affairs and depending upon moral con-

fidence is open to some possible or imaginary doubt. It is that state of the case which, after consideration of all of the evidence, leaves the mind of the jurors in such a condition that they cannot say that they feel an abiding conviction to a moral certainty of the truth of the charge.

Every person is presumed to be innocent until he is proven guilty, but if upon such proof there is a reasonable doubt remaining, the respondents are entitled to the benefit of it, and your verdict should be "Not guilty." It is not sufficient to establish a probability, though a strong one, that the fact charged is more likely to be true than otherwise, but the evidence must satisfy the truth of the fact to a reasonable and a moral certainty that convinces and directs your understanding and satisfies your reason and judgment and impels you to act conscientiously upon it.

14.

I instruct you, gentlemen, that the respondents are to be tried on the indictment in this case, and on that alone. It would make no difference if some one or more of the respondents had committed a multitude of wrongs or even of other crimes, if such should be found. If any respondent should be found by you not to have committed the crime of conspiracy as set forth in this indictment, it will be your duty to render a verdict of not guilty.

15.

You are instructed that if you find from the evidence that the respondent Truman H. Newberry, in the early part of 1918, either of his own accord or because of the solicitation of his friends, became a candidate for the nomination for United States Senator in the State of Michigan, and that at or about that time his business associates, coterie of friends and intimates voluntarily organized a committee whose officers were duly appointed or chosen, which committee had for its object the encouragement and development of the candidacy of the said Truman H. Newberry for United States Senator, and if you find from the evidence that thereafter the friends and relatives of said Truman H. Newberry voluntarily and in good faith contributed money to said committee by paying it to its treasurer, and if you find from the evidence that said money so contributed was thereafter used, employed and expended by said committee and its officers in furthering the candidacy of the said Truman H. Newberry for the nomination for United States Senator, and if you further find from the evidence that the said Truman H. Newberry did not give, contribute, expend, use or promise any money in aid and support of his candidacy in excess of the amount permitted by the laws of Michigan and the acts of Congress, and if you further find that the said Truman H. Newberry did not actively and directly procure to be given, contributed, used, expended or promised any money to said committee or its treasurer in excess of the amount permitted by the laws of Michigan or the acts of Congress, and if

you further find that there was no unlawful and felonious conspiracy, combination, confederation or agreement by and between two or more of the respondents that Truman H. Newberry should contribute, give, use, expend or promise, or actively and directly procure to be contributed, given, used, expended or promised, then and in that event your verdict must be "Not guilty" as to all of the respondents, even though you should find that the committee which conducted his campaign, or certain of its representatives and agents, expended money contrary to the provisions of the laws of Michigan, and even though you should find that a large and unusual amount of money was contributed to the political committee and its treasurer, and even though you should find that it was wrongfully and wastefully expended in the campaign.

16.

You are instructed that in considering the guilt or innocence of the respondents of the crime of conspiracy charged in the indictment, that wrongful intent is the very essence of the matter, and that in order to find one or more of the respondents guilty you must find that what such respondents did was done with an evil design and a wrongful purpose.

17.

Evidence has been received concerning the candidacy of James W. Helme in the primary election of 1918. The sole reason for receiving such evidence was to permit the Government, if it could do so, to show the expenditure of money by the political committee in charge of the Newberry candidacy for whatever effect it might have in showing any furtherance of the alleged conspiracy, and you are not to consider the evidence regarding the Helme candidacy except as it may show some act done and performed in furtherance of the original conspiracy, if you find that such conspiracy ever existed.

18.

Evidence has been received concerning the genuineness of certain petitions filed in the office of the Secretary of State in support of the candidacy of James W. Helme for nomination for United States Senator in the primary of 1918, and some testimony has been offered concerning the genuineness of certain signatures, and testimony has further been offered as to whose handwriting certain signatures on the said petitions are. In this connection I charge you that this evidence was received and may only be considered by you for the purpose of showing any act done in furtherance of the original conspiracy, if you find that any such original conspiracy ever existed. And even if you should find that one of the respondents was guilty of some irregularity in connection with the filing of said petitions, unless you found that that act was the result and in furtherance of the conspiracy charged in the indictment, you could not consider that act against any of the respondents in this indictment.

In other words, you would have no right to find any respondent guity of the crime charged in the indictment, even though you concluded from the evidence that one of the respondents had been guilty of some irregularity or misconduct with reference to such Helme petitions.

19.

You are instructed that evidence was received in this case of a moving picture film, of the organization of what was known as the Bolo Club, of the canvass amongst the Polish voters, of the circulation of literature amongst railroad employes, of active campaign work done amongst the marine service and labor unions, and of other classes and groups of men in different walks of life and different occupations and professions. This evidence is to be considered by you solely for the purpose of determining whether or not these things so claimed to have been done were done in furtherance of a conspiracy which had already been formed, which conspiracy had for its object the violation of the acts of Congress, and you may not consider this evidence for any other purpose, except as it may be deemed by you to be in furtherance of a conspiracy already formed, if you find that any such conspiracy ever existed.

20

On this trial, gentlemen, a great number of witnesses have been sworn on behalf of the respondents for the purpose of showing the reputation of such respondents in the community where they reside. This evidence of good character every respondent in every criminal case has a right to put in evidence, and with such evidence before you of the good character of these respondents, it may not only be sufficient to raise a reasonable doubt as to their guilt which would not otherwise exist, but it may bring conviction of innocence.

JAMES O. MURFIN,
Att'y of Record.

GEO. E. NICHOLS,
MARTIN W. LITTLETON,
Of Counsel.

[Endorsed:] United States of America. In the United States District Court for the Western District of Michigan, Southern Division. The United States vs. Truman H. Newberry et al. Requests to Charge. Filed March 20/20. Chas. J. Potter, Clerk.

THE UNITED STATES OF AMERICA.
Western District of Michigan,
Southern Division, ss:

At a session of the District Court of the United States for the Western District of Michigan, continued and held at the City of Grand Rapids, on the twentieth day of March, in the year of our

Lord, one thousand nine hundred and twenty and of the Independence of the United States of America, the one hundred and forty-fourth.

Present, the Honorable Clarence W. Sessions, District Judge.

Among the proceedings then and there had were the following, to-wit:

No. 1848

THE UNITED STATES

vs.

TRUMAN H. NEWBERRY and 134 Others.

Indictment—Conspiracy.

The defendants being present the trial was resumed and the jury returned into Court and through their foreman and on their oaths say that they find the following named defendants guilty as charged in the first count of the indictment, viz: Truman H. Newberry, Frederick Cody, Paul H. King, Charles A. Floyd, William J. Michel, Allen A. Templeton, Roger M. Andrews, Milton Oakman, Richard H. Fletcher, James T. McGregor, Fred Henry, Hannibal A. Hopkins, Elbert V. Chilson, John S. Newberry, Harry O. Turner, B. Frank Emery, George S. Ladd, and not guilty of the sixth count thereof, and that they find all the remaining defendants in this cause not guilty as charged.

And thereupon, the said defendants so convicted as aforesaid, through their counsel, moved the court in arrest of judgment herein on the grounds stated in their demurrer to the indictment and on their motions that the jury be instructed to render a verdict of not guilty which motion was denied and exceptions thereto taken by said defendants, and thereupon, the said defendants so convicted being placed at the bar of the court and urging nothing further to the contrary, it was ordered and adjudged that the said convicted defendants hereinbefore named are guilty as charged in the said first count of the indictment and that the said defendant Truman H. Newberry be imprisoned in the United States Penitentiary at Leavenworth, Kansas for the term and period of two years and pay to the United States a fine of $10,000; that the said Frederick Cody be imprisoned in the United States Penitentiary at Leavenworth, Kansas for the term and period of two years and pay to the United States a fine of $10,000; that the said Paul H. King be imprisoned in the United States Penitentiary at Leavenworth, Kansas for the term and period of two years and pay to the United States a fine of $10,000; that the said Charles A. Floyd be imprisoned in the United States Penitentiary at Leavenworth, Kansas for the term and period of two years and pay to the United States a fine of $5,000, that the said William J. Michel be imprisoned in the United States Penitentiary, at Leavenworth, Kansas for the term and period of

two years; and that the said Allen A. Templeton be imprisoned in the United States Penitentiary at Leavenworth, Kansas for the term and period of one year and six months; that Roger M. Andrews be imprisoned in the United States Penitentiary at Leavenworth, Kansas for the term and period of one year and six months; that Milton Oakman be imprisoned in the United States Penitentiary at Leavenworth, Kansas for the term and period of one year and six months; that Richard H. Fletcher be imprisoned in the United States Penitentiary at Leavenworth, Kansas for the term and period of one year and three months; that James F. McGregor be imprisoned in the United States Penitentiary for the term and period of one year and three months; that Hannibal A. Hopkins be imprisoned in the United States Penitentiary at Leavenworth, Kansas for the term and period of one year and one day; that Elbert V. Chilson be imprisoned in the United States Penitentiary at Leavenworth, Kansas for the term and period of one year and one day; that John S. Newberry pay to the United States $10,000. fine; that Harry O. Turner pay to the United States $2,000 fine; that B. Frank Emery pay to the United States $2,000 fine; that George S. Ladd pay to the United States $1,000 fine; and that the United States have execution of this judgment; and that Fred Henry be imprisoned in the United States Penitentiary at Leavenworth, Kansas, for the term and period of one year and three months

On application of said convicted defendants, it was ordered that a stay of proceedings herein be granted for the term of 90 days to enable said convicted defendants to move for a new trial, settle bill of exceptions, sue out a writ of error or certiorari or take such other proceedings as they may be advised upon their entering upon their recognizance in open court in the sum of $5,000 each as hereinafter recited; and thereupon, the said convicted defendants each for himself and as co-sureties for each and all of the others enters into a recognizance in open court as follows: you do each for yourselves and each as co-surety for each and all other defendants do acknowledge yourselves to be indebted to the United States of America in the sum of $5,000 to be levied of your goods and chattels, lands and tenements if default be made in the following condition: The condition of this obligation is such that whereas you have been convicted by the verdict of the jury of the charge in the first count of the indictment herein; and upon such verdict the judgment of the court has been pronounced, and you have applied to the court for a stay of proceedings to enable you to move for a new trial, settle a bill of exceptions upon appeal, sue out a writ of error or certiorari and take such other proceedings as you may be advised, and whereas, the court has granted such motion upon your entering into this recognizance. Now therefore, if you and each of you shall prosecute your appeal either to the Supreme Court of the United States or to the Circuit Court of Appeals of the 6th Circuit as the case may be to effect, and shall surrender yourself in execution of any judgment of said appellate court and of this court in this cause, then this recognizance shall be void, but otherwise be and remain in full force.

In the District Court of the United States for the Western District of Michigan, Southern Division.

THE UNITED STATES OF AMERICA

against

TRUMAN H. NEWBERRY, FREDERICK CODY, PAUL H. KING, CHARLES A. FLOYD, WILLIAM J. MICKEL, ALLEN A. TEMPLETON, ROGER M. ANDREWS, MILTON OAKMAN, RICHARD H. FLETCHER, JAMES F. MCGREGOR, FRED HENRY, HANNIBAL A. HOPKINS, ELBERT V. CHILSON, JOHN S. NEWBERRY, HARRY O. TURNER, B. FRANK EMERY, and GEORGE S. LADD.

Assignment of Errors.

Now comes the above named defendants, by James O. Murfin, their attorney, and in connection with their petition for a writ of error herein make and file the following joint and several assignment of errors.

The Court erred:

1. In overruling the demurrer to the indictment.

2. In holding that the indictment, and the matters therein contained, in manner and in form as they are therein stated and set forth, are sufficient, and that the defendants were bound by the law of the land to answer the same.

3. In holding that the acts described and set forth in the first count constitute a crime under the laws of the United States.

4. In holding that the Congress has power under the constitution of the United States to constitute any of the acts described and set forth in the first count a crime against the United States.

5. In holding that the Act of Congress, generally known as the Federal Corrupt Practices Act, approved June 25, 1910, as amended by the Acts of August 19, 1911, and August 23, 1912, so far as it undertook to constitute any of the acts described and set forth in the first count a crime against the United States, was not enacted without and in excess of any power conferred upon the Congress by the constitution of the United States, but was valid and effectual.

6. In construing the said Act, as amended, so as to constitute the acts described and set forth in the first count of the indictment a crime against the United States.

7. In holding that the said Act, as amended, when so construed, does not violate Article IX of the amendments to the constitution of the United States by denying and disparaging the sovereign right of the State of Michigan and its people to legislate and enforce legislation in respect of the matters which are the subject of the said Act, and its amendments, and which right was retained by the State of

Michigan and its people, when that state was admitted into the Union.

8. In holding that the power to legislate and enforce legislation in respect of the matters which are the subject of the said Act as amended was delegated to the United States by the Constitution, and prohibited by it to the States, and was not reserved to the States, respectively, or to the people, and that therefore the said Act, as amended, does not violate Article X of the Amendments to the constitution of the United States.

9. In holding that the Congress has power and authority under the constitution of the United States to enact laws regulating the acts and conduct of a citizen of a State who may become a candidate at a nominating convention, primary election or general election.

10. In holding that the Congress has power and authority to enact laws which add to the qualifications of members of the Senate, prescribed in Sections 2 and 3 of Article I of the Constitution of the United States.

11. In holding that Congress has power and authority under the constitution to fix as a maximum sum to be expended by a candidate a sum not in excess of that permitted by the laws of the State in which the candidate lives, when such maximum so fixed by the State differs radically in amount, each State from the other.

12. In holding that Congress has power and authority under the constitution to arbitrarily fix as a maximum amount to be expended by a candidate for Senator the sum of $10,000 without regard to the diverse and dissimilar conditions obtaining and prevailing in each of the forty-eight States, thus grossly discriminating between each of the members of the same class.

13. In holding that under the constitution it is within the power and authority of Congress, under the pretense of making regulations for the manner of holding elections for the office of Senator, to include within such regulations the pre-election devices of nomination and primary election, and the individual conduct of the candidate preceding such an election.

14. In holding that the phrase of the Constitution "manner of holding elections for Senators and Representatives," includes not only the election itself, as a whole, but also the means and processes which may be employed in the election.

15. In holding that a primary election, when employed, is a necessary step in the process of the election.

16. In holding that the regulation of a nominating or primary election has an important and direct bearing upon, and may be an essential part of, the regulation of the general election itself.

17. In denying the defendants' motion for an order requiring the attorneys for the Government to furnish them with a list of the

names of the witnesses who testified before the Grand Jury in the course of the inquiry which resulted in the finding of the indictment, and upon whose testimony the indictment was found, and the names of the witnesses from whom it had obtained oral or written statements, and the names of the persons whom the Government expected to call as witnesses upon the trial.

18. In denying that part of the said motion touching the names of the witnesses who testified before the Grand Jury, and upon whose testimony the indictment was found.

19. In denying that part of the said motion touching the names of the witnesses from whom the Government had obtained oral or written statements.

20. In denying that part of the said motion touching the names of the persons whom the Government expected to call as witnesses upon the trial.

21. In overruling the challenge to the array.

22. In preparing and causing to be sent on its own motion and without the consent or knowledge of the defendants, or of their attorneys, to each of the persons summoned to attend this court as traverse jurors on the 26th day of January, pursuant to the venire mentioned in that part of the said challenge appearing under the Roman numeral I. The questionnaire and letter therein set forth.

23. In excusing from jury service in this case, on its own motion, and without the consent and knowledge of the defendants, or their attorneys, and without giving and granting to the defendants and their counsel an opportunity to examine said excused persons upon their oath as to their qualifications and competency to sit as jurors in this cause, one hundred and two of the persons who had been so summoned and who had replied to the said communications and questionnaires, basing its action in that regard upon their said replies.

24. In sending to each of the persons summoned to attend this Court as traverse jurors, pursuant to the second special venire mentioned in that part of the said challenge appearing under the Roman numeral VI, the same questionnaire and letter mutatis mutandis, previously mentioned in the said challenge.

25. In excusing from jury service in this case on its own motion, and without the consent or knowledge of the defendants, or of their attorneys, and without giving the defendants and their counsel an opportunity to examine said excused persons upon their oath as to their qualifications and competency to sit as jurors in this cause, one hundred and eighteen of the said venire, basing its action upon the replies to the said questionnaire.

26. In excusing for different reasons, on its own motion, and without the consent or knowledge of the defendants or their attorneys, and without giving the defendants and their counsel an opportunity to examine said excused persons upon their oath as to their quali-

Sections to sit as jurors in this cause, thirteen of the original or regular panel mentioned in that part of the said challenge appearing under the Roman numeral VII.

27. In holding that the Clerk of the Court and jury commissioner, could and did legally, and according to the statute in such case made and provided, proceed to obtain lists of persons for jury service in this cause, in manner and form as alleged in that part of the challenge appearing under the Roman numerals V and VI.

28. In holding that the lists of persons from whom the jurors were to be, and were, drawn, and who constituted the array from which the jury herein was empanelled and sworn, were selected by the persons designated by law to select such lists.

29. In overruling the defendants' objection to the statement made to the jury by Mr. Dailey in his opening, to the effect that one of the one hundred and thirty-five defendants named in the indictment had never been arrested and that nine had terminated their cases by pleas that had been entered.

30. In refusing to instruct the jury to disregard Mr. Dailey's statement in that connection.

31. In overruling the defendants' objection to the statement made to the jury by Mr Dailey in his opening, to the effect that at the time he was talking about, and for some time previous, the employment of the defendant Frederick Cody was that of a legislative agent for large corporations particularly.

32. In refusing to instruct the jury to disregard the latter statement.

33. In sustaining the Government's objection to the following question propounded by Mr. Littleton to the witness Walter L. Chapelle: "You did not regard it (meaning the defendant Benjamin F. Bee's request that the witness take charge of the Newberry interests in Alcona County during the 1918 senatorial primary campaign) as an improper proposal?"

34. In sustaining the Government's objection to the following question subsequently propounded by Mr. Littleton to the same witness on his cross examination: "As a matter of fact you were for another candidate for United States Senator, were you not, Mr. Chapelle?"

35. In sustaining the Government's objection to the following question subsequently propounded by Mr. Littleton to the same witness on his cross examination: "I will ask you what your reason for not accepting the proposal was, Mr. Chappelle?"

36. In sustaining the Government's objection to the following question propounded by Mr. Littleton on cross examination to the witness Lisle Shanahan, who had testified that he had accepted from the defendant John M. Harris, who was acquitted, and expended

certain moneys in the promotion of the defendant Truman H. Newberry's senatorial primary campaign: "Did you accept this money and expend it with any thought that you were committing any wrong?"

37. In sustaining the Government's objection to the following question subsequently propounded by Mr. Littleton to the same witness on his cross examination: "Did you expend it in any other way except what you believed in the honest expenditures of the campaign and for honest purposes?"

38. In sustaining the Government's objection to the following question which was put by Mr. Murfin to the witness William J. Gray on his cross-examination: "There was a vault attached to each office in the Ford Building?"

39. In admitting the testimony of the witness Clyde L. Ross, based on the entries contained and set forth in the transcript of the books of the Commercial Savings Bank of Grand Rapids, marked Government Exhibit No. 6, as evidence of the dates and amounts of the deposits made by the defendant Charles A. Floyd in the said bank during the year 1918.

40. In admitting the testimony of the witness Albert R. Moore based on the deposit slips which were subsequently marked Government Exhibit No. 7, as evidence of the form in which the deposits to the account carried in the Commonwealth-Federal Savings Bank by the Newberry Senatorial Committee were made, and that some of such deposits were made by check and others in currency.

41. In denying the motion of the defendants to strike out the evidence of the same witness on the ground that it did not appear, directly or indirectly or inferentially, that any of the money which appeared in either of the two accounts regarding which he had testified, namely, that carried in the Commonwealth-Federal Savings Bank under the name of Paul H. King, Chairman, and the other carried by the same bank by the Newberry Senatorial Committee, was given, contributed or caused to be given or contributed by defendant, Truman H. Newberry, or that any of it was checked out or expended, or caused to be expended or checked out by him.

42. In denying the defendants' motion to strike out the testimony of the witness Herbert J. Rushton.

43. In admitting, over the defendants' objection and exception, the testimony of the witness Chase S. Osborn in substance and to the effect that during the 1918 senatorial primary campaign in Michigan he noticed the newspapers generally in that state and the advertisements in the various newspapers of Michigan for the defendant Truman H. Newberry.

44. In admitting, over the defendants' objection and exception, the testimony of the said Chase S. Osborn that at the time of the said senatorial campaign he had learned of the moving picture

exhibits, and of the headquarters that was maintained at Detroit, and of the field agents that were being sent out from headquarters to cover the state, and of their expenditures, all in connection with the Newberry campaign.

45. In admitting in evidence, over the defendants' objection and exception, the testimony of the said Chase S. Osborn to the effect that before he called at the office of the defendant Mark McKee in the Spring of 1918, he had had a talk with one Teeny Daniels.

46. In admitting in evidence, over the defendants' objection and exception, the testimony of the said Chase S. Osborn to the effect that he had called at the office of the defendant Mark McKee in the Spring of 1918, and had had a conversation with him in the course of which he told the latter that some time previously one Teeny Daniels had told him, the witness, that he, the defendant McKee, could deliver the Senatorship; that he had possibilities of organization that could be utilized in a way that would ensure election to the Senatorship for $150,000 to $200,000; that while he, the witness, hadn't any such sum, and couldn't think of anything of that kind, he thought he would call and tell the defendant McKee about it, and talk with him about it, and see if he could not get his support without such considerations.

47. In denying the motion of the defendants to strike out the testimony of the said Chase S. Osborn so far as it related to the above conversation with the defendant Mark McKee.

48. In denying the defendants' request that the Court say to the jury at that time, in reference to the testimony of the said Chase S. Osborn, that any statement made by Mr. Osborn, or characterization by him to Mr. McKee with reference to the campaign, was not evidence against Mr. McKee or any of the accused persons in the indictment.

49. In denying the defendants' motion to strike out and that the jury be advised to disregard that part of the testimony of the said Chase S. Osborn in which he testified in substance that in the primary campaign of 1918 he had a conversation with the defendant Milton Oakman on a boat going to a Republican club or picnic, in the course of which he, Osborn, said to Mr. Oakman, among other things: "I was up there at Lansing and they told me you were to receive $25,000, and at that time had $12,500," etc.; that Mr. Oakman said that it was made very clear to him that his interest was to be with Mr. Newberry, and he had to look out for himself; that he knew the character of the fight and what it took to put it up in Wayne County, and it was to his interest; that he did not think he asked Mr. Oakman directly whether he had received the other half of the $25,000, but simply said, "I know you are to receive $25,000 or more"; and that he thought he said something like "make it cost them what you are worth."

50. In refusing the defendants' request that the jury be instructed at that time that any statement made by the witness Osborn to

Mr. Osborn on that occasion as to what he had heard, or whether he had heard it or not, was not evidence against any of the accused persons.

51. In denying the motion of the defendants to strike out the testimony of the witness William Osborn to the effect that he had not signed his name or authorized any person to sign his name to a certain primary nominating petition of the defendant James W. Helme.

52. In taking the testimony of the witness William Tolena to the effect that he had not signed another of the primary nominating petitioners of the defendant James W. Helme, subject to the objection that was made to similar testimony given by the witness Osborn touching the petition exhibited to him.

53. In denying the defendants' motion to strike out the evidence of the witness George Adamson, to the effect that the signature to another of the Helme primary nominating petitions was not his and that he did not authorize anybody to sign his name thereto.

54. In admitting over the defendants' objection and exception the evidence of the witness Ernest K. Baxter to the effect that he did not sign and did not authorize anybody to sign his name to another of the Helme nominating petitions.

55. In sustaining the Government's objection to the following question propounded by Mr. Littleton on cross-examination of the witness Frank P. Ryberg: "After that time (meaning after the time when the witness had testified he was associated with the defendant Paul King in the Townsend Campaign), did you and he have a falling out?"

56. In sustaining the Government's objection to the following question which was propounded by Mr. Littleton to the same witness on cross-examination after the latter testified he knew the defendant William Priebeau: "And you had a falling out with Mr. Priebeau?"

57. In overruling the defendants' objection to the testimony given by the witness Francis B. Courtney, to the effect that he had made a comparison of the names appearing on the first page of Government Exhibit 124, and that in his opinion all of the names appearing upon the first page thereof were written by the same hand.

58. In admitting in evidence over defendants' objection and exception the testimony of the witness Clare R. Higbee as to the evidence given before the grand jury by the defendant George S. Ladd.

59. In admitting in evidence over defendants' objection and exception the testimony of the witness Clare R. Higbee as to the evidence given before the Grand Jury by the defendant William J. Mickel.

60. In admitting Government Exhibit No. 38 in evidence over the defendants' objection and exception.

61. In admitting Government Exhibits Nos. 44, 45 and 46 in evidence over the defendants' objection and exception.

62. In admitting Government Exhibit No. 60 in evidence over the defendants' objection and exception.

63. In denying the motion made by counsel for the defendants at the close of the Government's case, that the Court direct a verdict of not guilty on all of the counts then remaining in the indictment, on the ground that there was no evidence in the case upon which the jury could find, beyond a reasonable doubt, that the defendants, or any of them, committed any of the offenses with which they were charged in the remaining counts of the indictment.

64. In denying the motion of counsel for the defendant Truman H. Newberry, at the close of the Government's case, for the dismissal of his case and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

65. In denying the motion of counsel for the defendant Frederick Osly, at the close of the Government's case, for the dismissal of his case and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

66. In denying the motion of counsel for the defendant Paul H. King, made at the close of the Government's case, for the dismissal of his case and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

67. In denying the motion of counsel for the defendant Charles A. Floyd, made at the close of the Government's case, for the dismissal of his case and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

68. In denying the motion of counsel for the defendant William J. Mickel, made at the close of the Government's case, for the dismissal of his case and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

69. In denying the motion of counsel for the defendant Allan A. Templeton, made at the close of the Government's case, for the dismissal of his case and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

70. In denying the motion of counsel for the defendant Roger M. Andrews, made at the close of the Government's case, for the dis-

missal of his case and the direction of a verdict of not guilty in favor, upon the ground that there was no testimony warranting submission of his case to the jury.

71. In denying the motion of counsel for the defendant M[illegible] Graham, made at the close of the Government's case, for the missal of his case and the direction of a verdict of not guilty in favor, upon the ground that there was no testimony warranting submission of his case to the jury.

72. In denying the motion of counsel for the defendant Rich H. Fletcher, made at the close of the Government's case, for dismissal of his case and the direction of a verdict of not guilty his favor, upon the ground that there was no testimony warran the submission of his case to the jury.

73. In denying the motion of counsel for the defendant Jame McGregor, made at the close of the Government's case, for dismissal of his case and the direction of a verdict of not guilty his favor, upon the ground that there was no testimony warran the submission of his case to the jury.

74. In denying the motion of counsel for the defendant P Henry, made at the close of the Government's case, for the missal of his case and the direction of a verdict of not guilty in favor, upon the ground that there was no testimony warranting submission of his case to the jury.

75. In denying the motion of counsel for the defendant Hann N. Hopkins, made at the close of the Government's case, for dismissal of his case and the direction of a verdict of not guilty his favor, upon the ground that there was no testimony warran the submission of his case to the jury.

76. In denying the motion of counsel for the defendant Elbe Chilson, made at the close of the Government's case, for the missal of his case and the direction of a verdict of not guilty in favor, upon the ground that there was no testimony warranting submission of his case to the jury.

77. In denying the motion of counsel for the defendant John Newberry, made at the close of the Government's case, for the missal of his case and the direction of a verdict of not guilty in favor, upon the ground that there was no testimony warranting submission of his case to the jury.

78. In denying the motion of counsel for the defendant Ha O. Turner, made at the close of the Government's case, for the missal of his case and the direction of a verdict of not guilty in favor, upon the ground that there was no testimony warranting submission of his case to the jury.

79. In denying the motion of counsel for the defendant B. Fra Emery, made at the close of the Government's case, for the dismi

of his case and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

80. In denying the motion of counsel for the defendant George S. Ladd, made at the close of the Government's case, for the dismissal of his case and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

81. In excluding on the Government's objection the testimony of the defendant Paul H. King as a witness for the defense, touching his recollection of the conversation which took place between him and the defendant Odell, at the latter's office in Lansing, on an occasion when the defendant Helme's candidacy was talked of.

82. In sustaining the Government's objection to the question put by Mr. Murfin in connection with the testimony of the defendant Paul H. King, touching the proposed statement of principles which the defendant King testified he discussed with Commander Newberry, but which was never given out, as follows: "What was the reason for not giving it out if it developed during that discussion?"

83. In overruling the defendants' objection to the following question, which was propounded by Mr. Murfin to the witness Charles N. Hyde, called in rebuttal on behalf of the Government, who was a member of the grand jury which returned the indictment in this case, and who had testified to certain testimony given by the defendant George S. Ladd before that body: "And did Mr. Ladd further say to the Grand Jury that when he went out over the State to speak that there were several places where they found that he intended to speak for Mr. Newberry and where they did not permit him to do so?"

84. In excluding and rejecting on the Government's objection the defendants' Exhibits for identification No. 49 and Nos. 50 to 50-K inclusive.

85. In denying the motion made by counsel for the defendants at the close of the evidence and after both sides had rested, that the court direct a verdict of not guilty on all of the counts then remaining in the indictment on the ground that there was no evidence in the case upon which the jury could find beyond a reasonable doubt that the defendants or any of them committed any of the offenses with which they were charged in the remaining counts of the indictment.

86. In denying the motion made by counsel for the defendant, Truman H. Newberry, made at the close of the evidence and after both sides had rested, for the dismissal of his case and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

87. In denying the motion made by counsel for the defenda
Frederick Cody, made at the close of the evidence and after bo
sides had rested, for the dismissal of his case and the direction of
verdict of not guilty in his favor, upon the ground that there w
no testimony warranting the submission of his case to the jury.

88. In denying the motion made by counsel for the defenda
Paul H. King, made at the close of the evidence and after both sid
had rested, for the dismissal of his case, and the direction of
verdict of not guilty in his favor, upon the ground that there w
no testimony warranting the submission of his case to the jury.

89. In denying the motion made by counsel for the defenda
Charles A. Floyd, made at the close of the evidence and after bo
sides had rested, for the dismissal of his case, and the direction of
verdict of not guilty in his favor, upon the ground that there was n
testimony warranting the submission of his case to the jury.

90. In denying the motion made by counsel for the defenda
William J. Mickel, made at the close of the evidence and after bo
sides had rested, for the dismissal of his case, and the direction of
verdict of not guilty in his favor, upon the ground that there wa
no testimony warranting the submission of his case to the jury.

91. In denying the motion made by counsel for the defenda
Allan A. Templeton, made at the close of the evidence and afte
both sides had rested, for the dismissal of his case, and the directio
of a verdict of not guilty in his favor, upon the ground that ther
was no testimony warranting the submission of his case to the jury

92. In denying the motion made by counsel for the defendan
Roger M. Andrews, made at the close of the evidence and after bo
sides had rested, for the dismissal of his case, and the direction of
verdict of not guilty in his favor, upon the ground that there wa
no testimony warranting the submission of his case to the jury.

93. In denying the motion made by counsel for the defendan
Milton Oakman, made at the close of the evidence and after bot
sides had rested, for the dismissal of his case, and the direction of
verdict of not guilty in his favor, upon the ground that there was n
testimony warranting the submission of his case to the jury.

94. In denying the motion made by counsel for the defendan
Richard H. Fletcher, made at the close of the evidence and afte
both sides had rested, for the dismissal of his case, and the directio
of a verdict of not guilty in his favor, upon the ground that ther
was no testimony warranting the submission of his case to the jury.

95. In denying the motion made by counsel for the defendan
James F. McGregor, made at the close of the evidence and afte
both sides had rested, for the dismissal of his case, and the directio
of a verdict of not guilty in his favor, upon the ground that ther
was no testimony warranting the submission of his case to the jury

96. In denying the motion made by counsel for the defendant Fred Henry, made at the close of the evidence and after both sides had rested, for the dismissal of his case, and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

97. In denying the motion made by counsel for the defendant Hannibal A. Hopkins, made at the close of the evidence and after both sides had rested, for the dismissal of his case, and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

98. In denying the motion made by counsel for the defendant Elbert V. Chilson, made at the close of the evidence and after both sides had rested, for the dismissal of his case, and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

99. In denying the motion made by counsel for the defendant John S. Newberry, made at the close of the evidence and after both sides had rested, for the dismissal of his case, and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

100. In denying the motion made by counsel for the defendant Harry O. Turner, made at the close of the evidence and after both sides had rested, for the dismissal of his case, and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

101. In denying the motion made by counsel for the defendant B. Frank Emery, made at the close of the evidence and after both sides had rested, for the dismissal of his case, and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

102. In denying the motion made by counsel for the defendant George S. Ladd, made at the close of the evidence and after both sides had rested, for the dismissal of his case, and the direction of a verdict of not guilty in his favor, upon the ground that there was no testimony warranting the submission of his case to the jury.

103. In stating in the presence of the jury, in the discussion which took place between the Court and Mr. Littleton, in the course of the latter's closing address to the jury: "So far as the first count is concerned it would matter not whether Mr. King was mistaken in his construction of the law or not;" also "The sole question is whether the things were done, intentionally done, which constitute an offense under the laws of the United States;" and further "so far as the first count in this indictment is concerned, the subsequent sections of the Michigan Statute have nothing to do with it. So far as the 6th count is concerned, they have."

104. In refusing to charge the jury in the language of the defendants' request to charge numbered 1.

105. In refusing to charge the jury in the language of the defendants' request to charge numbered 7.

106. In refusing to charge the jury in the language of the defendants' request to charge numbered 8.

107. In refusing to charge the jury in the language of the defendants' request to charge numbered 9.

108. In refusing to charge the jury in the language of the defendants' request to charge numbered 15.

109. In charging the jury as follows: "The words 'give, contribute, expend or use,' as employed in this statute, have their usual and ordinary significance and mean furnish, pay out, disburse, employ or make use of. The term 'to cause to be expended, or used' as it is employed in this statute means to occasion, to effect, to bring about, to produce the expenditure and use of money."

110. In charging the jury as follows: "The prohibition contained in this statute against the expenditure and use of money by the candidate is not limited or confined to the expenditure and use of his own money. The prohibition is directed against the use and expenditure of excessive sums of money by the candidate from whatever source or from whomsoever those moneys may be derived."

111. In charging the jury as follows: "The phrase which constitutes the prohibition against the candidate 'causing to be given, contributed, expended or used excessive sums of money' is not limited and not confined to expenditures and use of money made directly and personally by himself. This prohibition extends to the expenditure and use of excessive sums of money in which the candidate actively participates or assists, or advises, or directs, or induces, or procures. The prohibition extends not only to the expenditure and use of excessive sums of money by the candidate directly and personally, but to such use and expenditure through his agency or procurement or assistance."

112. In charging the jury as follows: "To constitute a violation of this statute, knowledge of the expenditure and use of excessive sums of money on the part of the candidate is not sufficient; neither is it sufficient to constitute a violation of this statute that the candidate merely acquiesces in such expenditures and use. But it is sufficient to constitute a violation of this statute if the candidate actively participates in doing the things which occasion such expenditure and use of money, and so actively participates with knowledge that the money is being expended and used."

113. In charging the jury as follows: "To apply these rules to this case: If you are satisfied from the evidence that the defendant Truman H. Newberry at or about the time that he became a candidate for United States Senator, was informed and knew that his cam-

paign for the nomination and election would require the expenditure and use of more money than is permitted by law, and with such knowledge became a candidate, and thereafter by advice, by conduct, by his acts, by his direction, by his council or by his procurement he actively participated and took part in the expenditure and use of an excessive sum of money, of an unlawful sum of money, you will be warranted in finding that he did violate this statute known as the Corrupt Practices Act."

113½. In charging the jury as follows: "There is another federal statute which is one of the sections of the criminal or penal code of the United States, which provides in substance that any person who aids, counsels, induces or procures another person to commit a crime, shall be deemed guilty of the crime committed through his aid, counsel, inducement or procurement. Hence any person who knowingly and intentionally aids, counsels, induces or procures a candidate for United States Senator to give, contribute, expend or use, or to cause to be given, contributed, expended or used in procuring the nomination and election, an excessive and unlawful amount of money, is also guilty of violation of the Corrupt Practices Act, the act of Congress. Applying this statute to the present case, if you are satisfied from the evidence in this case that the respondents other than the defendant Truman H. Newberry, or some of them, did in fact aid, assist, counsel, induce or procure the defendant Truman H. Newberry to violate the Federal Corrupt Practices Act, you will be warranted in finding that they also are guilty of a violation of that Act.

114. In charging the jury as follows: A criminal intent is one of the essential elements of an unlawful conspiracy. There must be an evil design and wrongful purpose. A conspiracy cannot exist without a guilty intent being then present in the minds of the conspirators. But this does not mean that the parties must know that they are violating the statutes of the United States. In order to warrant a verdict of guilty the Government is not required to prove that the parties knew that some statute forbade the acts they were performing. Every person is presumed to know the law and also to intend the natural and ordinary results and consequences of his acts and conduct.

115. In charging the jury as follows: "An unlawful or wrongful intent may be implied from the intentional doing of an unlawful act. A wrongful act knowingly or intentionally committed cannot be justified on the ground of innocent intent.

116. In charging the jury as follows: "To establish a conspiracy to violate a law or commit an offense it is only necessary to show an agreement to do the acts which constitute such violation or offense. The only question for you to pass upon is whether the defendants violated the law; not whether they had any knowledge that they were violating the law."

117. In charging the jury as follows: "To apply these rules of law to the present case: If you find from the evidence that these defendants or some of them entered into an agreement, plan or arrangement that there should be expended in procuring the nomination and election of the defendant Truman H. Newberry — the office of United States Senator, a sum of money in excess of the sum of $3,750.00, and you further find that was a part of that plan, agreement or arrangement, definitely understood, that the defendant Truman H. Newberry should knowingly and intentionally and actively participate and take part in such expenditure and use of money by his acts and counsel, or by his direction or advice, or counsel, you will be warranted in finding that a conspiracy did exist such as *his* charged in the first count of this indictment.

118. In denying the defendants' motion in arrest of judgment.

119. In denying the defendant Truman H. Newberry's motion in arrest of judgment.

120. In denying the defendant Frederick Cody's motion in arrest of judgment.

121. In denying the defendant Paul H. King's motion in arrest of judgment.

122. In denying the defendant Charles A. Floyd's motion in arrest of judgment.

123. In denying the defendant William J. Mickel's motion in arrest of judgment.

124. In denying the defendant Allan A. Templeton's motion in arrest of judgment.

125. In denying the defendant Roger M. Andrews' motion in arrest of judgment.

126. In denying the defendant Milton Oakman's motion in arrest of judgment.

127. In denying the defendant Richard H. Fletcher's motion in arrest of judgment.

128. In denying the defendant James F. McGregor's motion in arrest of judgment.

129. In denying the defendant Fred Henry's motion in arrest of judgment.

130. In denying the defendant Hannibal A. Hopkins' motion in arrest of judgment.

131. In denying the defendant Elbert V. Chilson's motion in arrest of judgment.

132. In denying the defendant John S. Newberry's motion in arrest of judgment.

133. In denying the defendant Harry O. Turner's motion in arrest of judgment.

134. In denying the defendant B. Frank Emery's motion in arrest of judgment.

135. In denying the defendant George S. Ladd's motion in arrest of judgment.

136. In denying the defendants' motion for a new trial.

137. In denying the defendant Truman H. Newberry's motion for a new trial.

138. In denying the defendant Frederick Cody's motion for a new trial.

139. In denying the defendant Paul H. King's motion for a new trial.

140. In denying the defendant Charles A. Floyd's motion for a new trial.

141. In denying the defendant William J. Mickel's motion for a new trial.

142. In denying the defendant Allan A. Templeton's motion for a new trial.

143. In denying the defendant Roger M. Andrews' motion for a new trial.

144. In denying the defendant Milton Oakman's motion for a new trial.

145. In denying the defendant Richard H. Fletcher's motion for a new trial.

146. In denying the defendant James F. McGregor's motion for a new trial.

147. In denying the defendant Fred Henry's motion for a new trial.

148. In denying the defendant Hannibal A. Hopkins' motion for a new trial.

149. In denying the defendant Elbert V. Chilson's motion for a new trial.

150. In denying the defendant John S. Newberry's motion for a new trial.

151. In denying the defendant Harry O. Turner's motion for a new trial.

152. In denying the defendant B. Frank Emery's motion for a new trial.

153. In denying the defendant George S. Ladd's motion for a new trial.

Wherefore the defendants jointly and severally pray that the judgments rendered against them and each of them herein be reversed, annulled and held for naught, and that the defendants and each of them be wholly discharged and dismissed from the premises in the indictment specified.

Dated, the 19th day of June, 1920.

J. O. MURFIN,
Attorney for the Defendants.

[Endorsed:] District Court of the United States for the Western District of Michigan, Southern Division. The United States vs. Truman H. Newberry and sixteen others. Assignment of Errors. Filed June 19, 1920. Chas. J. Potter, Clerk. James O. Murfin, Esq., Attorney for Defendants, Dime Savings Bank Bldg., Detroit, Michigan.

UNITED STATES OF AMERICA,
Western District of Michigan,
Southern Division, ss:

I, Charles J. Potter, Clerk of the United States District Court for the Western District of Michigan, do hereby certify that the within and foregoing are true and compared copies of all those parts of the files and records in the within entitled cause of the United States vs. Truman H. Newberry, et al., which are specified in the præcipe of counsel for the defendants in said cause (counsel for the United States having filed no præcipe) to which I have attached the original citation; the whole constituting the transcript on appeal and writ of error taken in said cause, as made up pursuant to said præcipe of counsel for the defendants.

Witness my hand and seal of said Court at the City of Grand Rapids, in said District this 15th day of September, A. D. 1920.

[Seal of the United States District Court, Western District of Michigan, Southern Division.]

CHAS. J. POTTER,
Clerk.

By the Honorable Clarence W. Sessions, United States District Judge for the Western District of Michigan, Southern Division, to A. Mitchell Palmer, Esquire, Attorney General of the United States, Greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States, to be holden at the Capitol in the City of Washington in the District of Columbia, on the 19th day of July, 1920, pursuant to a writ of error filed in the office of the

Clerk of the District Court of the United States for the Western District of Michigan, Southern Division, wherein Truman H. Newberry and sixteen others are plaintiffs and The United States of America is defendant, to show cause, if any there be, why the several judgments in the said writ of error mentioned should not be corrected and speedy justice should not be done in that behalf.

Given under my hand at the City of Grand Rapids in the District and Division aforesaid, this 19th day of June, 1920.

C. W. SESSIONS,
District Judge of the United States for the Western District of Michigan, Southern Division.

UNITED STATES OF AMERICA:

United States District Court for the Western District of Michigan, Southern Division.

THE UNITED STATES OF AMERICA

vs.

TRUMAN H. NEWBERRY and Others, Respondents.

To Charles J. Potter, Esq.,
Clerk of said Court:

SIR:

You are hereby respectfully requested to include in your return and transcript on error in the above cause the following:

The indictment, the demurrer thereto, the order overruling the demurrer, the challenge to the array, the order overruling the challenge to the array, the verdict, the judgments, all of clerk's minutes showing proceedings of any and every kind in said cause from the time of the return of the indictment to the entry of final judgment, together with bill of exceptions, assignments of error, petition for writ of error, writ of error and allowance of same, citation, and all endorsements on all papers.

Yours, etc.,

JAMES O. MURFIN,
Attorney for Respondents.

[Endorsed:] 1848. United States District Court for the Western District of Michigan, Southern Division. United States of America vs. Truman H. Newberry et al., respondents. Præcipe for Return. Filed Jun. 26, 1920. Chas L. Fitch, Deputy Clerk. James O. Murfin, Attorney for respondents, 1905 Dime Bank Bldg., Detroit, Michigan.

[Endorsed:] Supreme Court of the United States. Truman H. Newberry and sixteen others, plaintiffs-in-error, vs. The United States. Citation. Filed June 19, 1920. Chas J. Potter, Clerk. Due service

of the within citation is hereby admitted. Grand Rapids, Mich June 19, 1920. A. Mitchell Palmer, Att'y General, by Frank C Dailey, special assistant to the att'y general. James O. Murfin Attorney for defendants. Dime Savings Bank Bldg., Detroit, Michigan

UNITED STATES OF AMERICA, *ss*:

The President of the United States of America to the United State District Judge for the Western District of Michigan, Greeting:

Because in the record and proceedings, as also in the rendition of certain several judgments of a plea which is in the District Court of the United States for the Western District of Michigan, Southern Division, before you, between The United States of America and Truman H. Newberry, Frederick Cody, Paul H. King, Charles A. Floyd, William J. Mickel, Allan A. Templeton, Roger M. Andrews, Milton Oakman, Richard H. Fletcher, James F. McGregor, Fred Henry, Hannibal A. Hopkins, Elbert V. Chilson, John S. Newberry, Harry O. Turner, B. Frank Emery and George S. Ladd, wherein the said several judgments were rendered on the 20th day of March, 1920, a manifest error hath happened, to the great damage of each of the said defendants, as is said and appears by their joint and several complaint: we, being willing that such error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Justices of the Supreme Court of the United States at the Capitol in the city of Washington, together with this writ, so that you have the same at the said place, before the Justices aforesaid, on the 19th day of July, 1920, that, the record and proceedings aforesaid being inspected, the said Justices of the Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States ought to be done.

Witness the Honorable Edward D. White, Chief Justice of the United States, this 19th day of June, 1920.

[Seal of the U. S. District Court, Western District of Mich., Southern Division.]

CHAS. J. POTTER,
Clerk of the District Court of the United States for the Western District of Michigan, Southern Division.

The foregoing writ is hereby allowed. The defendant in error having waived bond for damages and costs, let the same operate as a supersedeas. The Clerk of this Court is hereby directed to make return to the said writ by transmitting to the Clerk of the Supreme Court a single and true copy of the record and proceedings in the

said cause, including the joint and several bill of exceptions of the petitioners, together with copies of the said writ, of the petition therefor, the assignment of errors filed therewith, and of the citation thereupon issued.

Dated the 19th day of June, 1920.

C. W. SESSIONS,
United States District Judge for the Western District of Michigan, Southern Division.

[Endorsed:] Supreme Court of the United States. Truman H. Newberry and sixteen others, Plaintiffs-in-error, v. The United States. Writ of Error. Filed June 19/20. Chas. J. Potter, Clerk. Due service of the within writ and allowance thereof is hereby admitted. Grand Rapids, Michigan, June 19, 1920. A. Mitchell Palmer, Attorney General, by Frank C. Dailey, Special Assistant to the Attorney General. James O. Murfin, Attorney for Defendants, Dime Savings Bank Bldg., Detroit, Michigan.

Endorsed on cover: File No. 27,916. W. Michigan D. C. U. S. Term No. 550. Truman H. Newberry et al., plaintiffs in error, vs. The United States of America. Filed September 23d, 1920. File No. 27,916.

In the Supreme Court of the United States.

October Term, 1920.

No. 559.

TRUMAN H. NEWBERRY and Others, Plaintiffs in Error,

vs.

THE UNITED STATES OF AMERICA.

Stipulation as to the Record.

In this case, for the purpose of correcting certain errors and supplying an omission in the printed record, the following stipulation is entered into:

1. The clerk of the trial court has by inadvertence copied into the record the wrong indictment. It is therefore agreed that the record shall be amended by striking therefrom the indictment now appearing on pages 957 to 969, inclusive, and inserting in lieu thereof a copy of the indictment upon which the plaintiffs in error were actually tried, and which is attached hereto marked Exhibit A.

2. The requests for instructions to the jury which were made a part of the record are included in the bill of exceptions. There appear, however, on pages 982 to 989 certain other papers purporting to be requests for instructions which are not a part of the record, and it is agreed that they shall be treated as stricken therefrom.

3. In order that the record may fully show the facts with respect to the presentation and signing of the bill of exceptions in this case, it is agreed and stipulated as follows:

The stenographic transcript of the evidence and proceedings in this case was very voluminous, consisting of several thousand pages. Upon the receipt of this transcript counsel for the plaintiffs in error undertook to prepare a bill of exceptions, and were engaged in this work until about June 7, 1920, when they submitted to counsel for the Government their draft of a bill of exceptions. From that time until the presentation of the bill of exceptions to the trial judge on June 19, 1920, the opposing counsel had been working constantly and laboriously in the effort to agree on the contents of the bill of exceptions. Counsel for plaintiffs in error were anxious that this be done without asking for a further extension of time. They had assumed all along that, if filed on June 19 it would be in time. There was, however, nothing said at any time between them and counsel representing the Government as to when the time would expire. The bill of exceptions was nearly completed on June 18 and, on that date, counsel for plaintiffs in error stated

to the trial judge, in the presence of counsel for the Government, that the bill of exceptions would be ready for presentation on the next day, and the judge agreed to meet counsel for that purpose, and neither on June 18, nor when the bill was presented on the 19th, was anything said by the judge or by counsel on either side, or any question raised as to whether the time within which it could be settled and filed had expired.

4. It is agreed that this stipulation may be printed and filed and treated as a part of the record.

This October 29, 1920.

MARTIN W. LITTLETON,
Counsel for Plaintiffs in Error.
WM. L. FRIERSON,
Solicitor General.

EXHIBIT A.

UNITED STATES OF AMERICA:

In the District Court of the United States for the Western District of Michigan, Southern Division.

October Term, in the Year 1919.

WESTERN DISTRICT OF MICHIGAN,
Southern Division, ss:

The grand jurors for the United States of America duly selected, impaneled and sworn in the District Court of United States for the Southern Division of the Western District of Michigan at the October Term of said Court in the year 1919, and inquiring for said Division and District, upon their oaths do present and say:

First Count.

That Truman H. Newberry, Chase S. Osborne, Henry Ford and William B. Simpson, before and on August 27, 1918, were candidates for the Republican nomination for the office of Senator in the Congress of the United States from the State of Michigan at the primary election held in said State on that day under the laws of said State, and Henry Ford and James Helm, before and on said August 27, 1918, were candidates for the Democratic nomination for the same office at said Primary election; that from said August 27, 1918, to and including November 5, 1918, said Truman H. Newberry and said Henry Ford, by reason of their election and nomination at said Primary election, became and were opposing candidates for election to the office of Senator in the Congress of the United States from said State of Michigan at the general election held in said State on said November 5, 1918,—said Truman H. Newberry of the Republican Party and said Henry Ford of the Democratic Party,—each of said candidates having, on said August 27, 1918, and

said November 5, 1918, attained to the age of thirty years and upwards and been a citizen of the United States for more than nine years and each then being an inhabitant and resident of said State and that said Truman H. Newberry, Carl H. Kang, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Mitton Oakman, Harry O. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Micke, Clarence L. Sibben, Mark T. McKee, James F. McGregor, Frank W. Blair, William L. Calton, Zalie B. Clago, Reginald M. Andrews, Judd Yelland, Louis Barr, Richard H. Fletcher, Alexander C. Green, Frank O. Gilbert, George S. Ladd, Edward O. McLean, Benjamin F. Reed, Charles Tufts, Arthur H. Wentz, Terry T. Cotliss, Roman F. Gluchoski, William T. Hosner, William E. Rice, James R. Davis, James W. Helme, James B. Haskins, Harrison Merrill, Elmer L. Smith, Fred Henry, Charles A. Campbell, John M. Harris, George W. John, J. Scott Hunter, George E. Rogers, Wick O'Connell, George W. Welsh, Lewis L. Thompson, Allan K. Moore, William B. Wilson, Clyde J. Watt, William H. Smith, Jr., Myron J. Sherwood, Timothy H. Ryan, Edward Nowack, Daniel C. Laughlin, Frank Guinan, August Field, Frank L. Gorrt, James R. Burns, Neal R. Walsh, Judd Ryno, Emery Mills, Fred L. Keister, James F. Fisher, Henry R. Detsch, James Bailey, Albert H. Burger, Charles L. Carpenter, Charles H. Farrell, Frank D. McKay, Thaddeus C. Seeley, Thomas Bigger, Edward W. Fehling, Frank Ford, Roda E. Prescott, Robert Tetro, Dan Kennedy, John Cawood, William Connelly, Fay G. Dunning, James B. Bradley, Edwin Goodwin, Fred W. Castator, Earl J. Davis, Fred K. Cronenwett, Ray E. Colwell, Charles V. DeLand, Will S. Darling, Christian J. Broeck, Gladstone R. Beattie, Karl B. Matthews, Fred M. Northrop, James Swain, Joshua L. Boyd, Benjamin Gero, Anton Budnik, Foster Cameron, Guy L. Ingalls, E. Bruce Lang, De Witt Brown, Henry Myers, William Trebilcock, John W. Dunn, William S. Cudeckas, Archie Anderson, Glenn L. Williams, Carlos A. Reading, Paul Woodworth, Carl Mosier, Earl Fairbanks, Frank P. Bohn, John Jones, Elmer E. White, Silas J. McGregor, William E. Lewis, Edward J. Bowman, Dudley C. Houk, Ernest C. Smith, John C. Rittenhouse, Alfred F. Crawford, Mell R. Doe, Willis V. Capron, William Priedeau, James Dewey, George Carrigan, John Wagley, Claud Vandervoen, Albert Taylor, Hugh Madigan, John P. Hewitt, Frederick J. Derrick, Peter T. Brady, Samuel Odell, hereinafter called defendants, continuously and at all and divers times throughout the period of time from December 1, 1917, to and including said November 5, 1918, at and within said Southern Division of said Western District of Michigan, unlawfully and feloniously did conspire, combine, confederate and agree together, and with divers other persons to said grand jurors unknown, to commit an offense against the United States, to-wit, the offense on the part of said Truman H. Newberry of wilfully violating the Act of Congress approved June 25, 1910, as amended by the Acts of August 19, 1911, and August 23, 1912, by giving

contributing, expending and using and by causing to be given, contributed, expended and used, in procuring his nomination and election as such Senator at said primary and general elections, a sum, in the aggregate, in excess of the amount which he might lawfully give, contribute, expend, or use, or cause to be given, contributed, expended or used for such purpose under the laws of said State of Michigan, to-wit the sum of one hundred thousand dollars, and by giving, contributing, expending and using and causing to be given, contributed, expended and used in procuring his nomination and election as such Senator, at said primary and general elections, a sum in the aggregate, in excess of ten thousand dollars, to-wit, said sum of one hundred thousand dollars, and on the part of said other defendants of aiding, counseling, inducing and procuring said Truman H. Newberry so to give, contribute, expend and use and cause to be given, contributed, expended and used said large sum of money in excess of the amounts permitted by the laws of the State of Michigan and the said Acts of Congress; the same to be money so unlawfully given, contributed, expended and used by said Truman H. Newberry and by him caused to be given, contributed, expended and used as such candidate for the following and other purposes, objects and things, to-wit:

Advertisements in newspapers and other publications;

Print paper, cuts, plates and other supplies furnished to newspaper publishers;

Subscriptions to newspapers;

Production, distribution and exhibition of moving pictures;

Traveling and subsistence expenses of campaign managers, public speakers, secret propagandists, field, district and county agents and solicitors, and of voters not infirm or disabled;

Compensation of campaign managers, public speakers and secret propagandists, and of field, district and county agents and solicitors;

Appropriating and converting to the use of the defendants themselves, and each of them, large sums of money under the guise and pretense of payment of their expenses and compensation for their services;

Rent of offices and public halls;

Bribery of election officials;

Unlawful assistance of election officials;

Bribery of voters;

Expenses and compensation of Democratic obstructionist candidates at the primary election;

Expenses and compensation of detectives;

Dinners, banquet and other entertainments given to persons believed to be influential in said State of Michigan;

And no part of which said money was to be money expended by said Truman H. Newberry, as such candidate, to meet or discharge assessments, fees, or charges made or levied upon candidates by the laws of said State, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), or for

distributing letters, circulars, or posters, or for telegraph or telephone service, or for proper legal expenses in maintaining or contesting the results of either of said elections.

Overt Acts.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present, that certain of said defendants, at the divers times and places in that behalf hereafter in this count of this indictment mentioned in connection with their respective names, did do certain acts to effect the object of the unlawful and felonious conspiracy, combination, confederation and agreement in this count described; that is to say:

1. Said Paul H. King, on April 1, 1918, at Detroit, Michigan, employed Roman F. Glocheski, at a salary of one hundred and fifty dollars per month, to work for said Truman H. Newberry in his said senatorial campaign.

2. Said Paul H. King, on June 1, 1918, at Detroit, Michigan, gave A. K. Moore one hundred dollars.

3. Said B. Frank Emery, on April 1, 1918, at Detroit, Michigan, gave John Cawood one hundred dollars.

4. Said Paul H. King, on April 1, 1918, at Detroit, Michigan, employed Rolla E. Prescott, at a large salary, towit, a salary of one hundred and fifty dollars per month for five months, to work in behalf of said Truman H. Newberry in his said senatorial campaign.

5. Said Charles A. Floyd, on April 1, 1918, at Grand Rapids, Michigan, gave George W. Welsh one hundred dollars.

6. Said Charles A. Floyd, on September 1, 1918, at Bellaire, Michigan, gave James Deevey fifty dollars.

7. Said Elbert V. Chilsen, on August 1, 1918, at Detroit, Michigan, gave Daniel C. Laughlin one hundred dollars.

8. Said B. Frank Emery, at different times between May 1, 1918, and November 5, 1918, at Detroit, Michigan, gave Guy L. Ingalls, different sums of money, amounting in all to a large sum, to-wit two thousand and seven hundred dollars.

9. Said Charles A. Floyd, on July 1, 1918, at Grand Rapids, Michigan, gave Elmer O. McLane one hundred dollars.

10. Said B. Frank Emery, on May 1, 1918, at Detroit, Michigan, gave Elmer O. McLane one hundred dollars.

11. Said Paul H. King, on May 1, 1918, at Detroit Michigan, employed Elmer O. McLane at a large salary, to-wit, a salary of two hundred dollars per month to work for four months in assisting said Truman H. Newberry in his said senatorial campaign.

12. Said John M. Harris, on August 20, 1918, at Charlevoix, Michigan, gave Lisle Shannahan forty dollars.

13. Said John M. Harris, on July 1, 1918, at East Jordan, Michigan, gave Dwight H. Fitch forty-five dollars.

14. Said Charles A. Floyd, on July 1, 1918, at Grand Rapids, Michigan, gave Fred D. Keister two hundred dollars.

15. Said George W. Welsh, on August 20, 1918, at Grand Rapids, Michigan, gave Charles I. Nowrat eighty dollars.

16. Said Charles A. Floyd, on June 1, 1918, at Kalkaska, Michigan, gave Ed. A. Nowack one ton of print paper valued at one hundred and twenty dollars.

17. Said Charles A. Floyd, on July 1, 1918, at Grand Rapids, Michigan, gave Ed. A. Nowack fifty dollars.

18. Said Charles A. Floyd, on June 1, 1918, at Grand Rapids, Michigan, gave George G. Rogers fifty dollars.

19. Said Charles A. Floyd, on April 1, 1918, at Grand Rapids, Michigan, employed George G. Rogers at a large salary, to-wit, a salary of twenty-five dollars per week, to work as an agent and solicitor for said Truman H. Newberry in promoting his said senatorial campaign.

20. Said Charles A. Floyd, on July 1, 1918, at Ludington, Michigan, gave Charles Tufts four hundred dollars.

21. Said Paul H. King, on April 1, 1918, at Detroit, Michigan, gave Charles Tufts one hundred dollars.

22. Said William Calnon, on March 15, 1918, at Kalamazoo, Michigan, employed Harrison Merrill at a large salary, to-wit, a salary of twenty-five dollars per week to do publicity work in behalf of said Truman H. Newberry in said primary senatorial campaign.

23. Said Judd Yelland, on August 27, 1918, at Escanaba, Michigan, gave said Henry Ditsch fifty dollars.

24. Said Charles A. Floyd, June 1, 1918, at Grand Rapids, Michigan, employed William J. Mickel to induce James Helm to become a Democratic candidate at the forthcoming senatorial primary election.

25. Said Charles A. Floyd, from June 15, 1918, to August 27, 1918, paid William J. Mickel a large sum weekly, to-wit, fifty dollars, to be given to James Helm for becoming a Democratic senatorial candidate at the forthcoming primary election.

26. Said Paul H. King, on June 1, 1918, at Detroit, Michigan, employed Terry T. Corliss, at a large salary, to-wit, a salary of

seventy-five dollars per week, to work for five months in behalf of said Truman H. Newberry in his said senatorial campaign.

27. Said B. Frank Emery, at four different times between April 1, 1918, and November 5, 1918, at Detroit, Michigan, gave George W. John one hundred dollars.

28. Said Milton Oakman, on March 6, 1918, at Detroit, Michigan, employed said Zalie B. Clago, at a large salary, to-wit, a salary of three hundred dollars per month, to take charge of the Wayne County headquarters of workers for said Truman H. Newberry in the forthcoming senatorial campaign.

29. Said Frank B. Emery and Harry Turner, from March 6, 1918, to November 5, 1918, paid Zalie B. Clago, a large sum of money, to-wit, eighteen hundred dollars, as his compensation for taking charge of the Wayne County headquarters of workers for said Truman H. Newberry in his said senatorial campaign, among other things.

30. Said Paul H. King, on May 5, 1918, at Detroit, Michigan, employed said Thomas P. Phillips at a large salary, to-wit, a salary of one hundred dollars per week, to write newspaper articles and advertisements pertaining to the senatorial campaign of said Truman H. Newberry.

31. Said Judd Yelland and Henry Dotsch, on November 4, 1918, at Gladstone, Michigan, gave Philip Lewis five dollars.

32. Said Will S. Darling, on November 4, 1918, at Cross Village, Michigan, promised Peter T. Brady, a member of the Election Board, that he should be given "a good job," if he would assist said Truman H. Newberry at said general election by instructing Indian voters to vote for said Truman H. Newberry, and gave said Peter T. Brady ten dollars.

33. Said Will S. Darling, on November 4, 1918, at Cross Village, Michigan, requested John Wagley to use his influence as an election officer to get Indian voters to vote at said general election for said Truman H. Newberry.

34. Said Will S. Darling, on November 5, 1918, at Cross Village, Michigan, gave John Wagley ten dollars.

35. Said Judd Yelland, on November 4, 1918, at Escanaba, Michigan, gave Henry Smith five dollars.

36. Said Roger M. Andrews, on November 4, 1918, at Menominee, Michigan, gave John Ludeck ten dollars.

37. Said Frank D. McKay, on November 2, 1918, at Grand Rapids, Michigan, gave David VanderMeulen ten dollars.

38. Said Frank D. McKay, on October 20, 1918, at Grand Rapids, Michigan, gave Burt Klenkowski ten dollars.

Conclusion.

And so the grand jurors aforesaid, upon their oaths aforesaid, do say, that said defendants, continuously and at all and divers times throughout the period of time in this count mentioned, at and within said division and district, in manner and form in this count aforesaid, unlawfully and feloniously did conspire to commit an offense against the United States, and certain of them did do acts to effect the object of the conspiracy; Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Second Count.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present that said Truman H. Newberry, Chase S. Osborne, Henry Ford and William B. Simpson, before and on August 27, 1918, were candidates for the Republican nomination for the office of Senator in the Congress of the United States from the State of Michigan, at the primary election held in said State on that day under the laws of said State, and Henry Ford and James Helm, before and on said August 27, 1918, were candidates for the Democratic nomination for the same office at said primary election; each of said candidates having, on said August 27, 1918, attained to the age of thirty years and upwards and been a citizen of the United States for more than nine years, and each then being an inhabitant and resident of said State; and that said Truman H. Newberry, Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hoskins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Mickel, Clarence L. Silsbee, Mark T. McKee, James F. McGregor, Frank W. Blair, William L. Calhoun, Zalie B. Clago, Roger M. Andrews, Judd Yelland, Louis Burr, Richard H. Fletcher, Alexander C. Green, Frank O. Gilbert, George S. Ladd, Edward O. McLean, Benjamin F. Reed, Charles Tufts, Arthur H. Wentz, Terry T. Corliss, Roman F. Glocheski, William T. Hosmer, William F. Rice, James R. Davis, James W. Hebne, James B. Haskins, Harrison Merrill, Elmer E. Smith, Fred Henry, Charles A. Campbell, John M. Harris, George W. John, J. Scott Hunter, George E. Rogers, Wick O'Connell, George W. Welch, Lewis L. Thompson, Allan K. Moore, William B. Wilson, Clyde J. Watt, William H. Smith, Jr., Myron J. Sherwood, Timothy H. Ryan, Edward Nowack, Daniel C. Lauchlin, Frank Guinan, August Field, Frank L. Covert, James B. Burns, Neal R. Welsh, Judd Reno, Emory Mills, Fred L. Keister, James F. Fisher, Henry R. Dotsch, James Dailey, Albert H. Burger, Charles L. Carpenter, Charles H. Farrell, Frank D. McKay, Thaddeus C. Seeley, Thomas Bigger, Edward W. Fehling, Frank Ford, Rola E. Prescott, Robert Teare, Dan Kennedy, John Cawood, William Connelly, Fay G. Dunning, James B. Bradley, Edwin Goodwin, Fred W. Castator, Earl J. Davis,

Fred K. Cronenwett, Ray E. Colwell, Charles V. De Land, Will S Darling, Christian J. Broeck, Gladstone R. Beattie, Karl B. Matthews Fred M. Northrop, James Swain, Joshua L. Boyd, Benjamin Gero Anton Bushak, Foster Cameron, Guy L. Ingalls, E. Bruce Leaing, D Witt Brown, Henry Myers, William Trebilcock, John W. Dunn, Wil liam S. Cresbassa, Archie Anderson, Glenn L. Williams, Carlos A Reading, Paul Woodworth, Carl Mosier, Earl Fairbanks, Frank P Bohn, John Jones, Elmer E. White, Silas J. McGregor, William E Lewis, Edward J. Bowman, Dudley C. Houk, Ernest C. Smith, John C. Rittenhouse, Alfred F. Crawford, Mell R. Deo, Willis v. Capron William Priedeau, James Deevey, George Carrigan, John Wagley Claud Vanderveen, Albert Taylor, Hugh Maddigan, John P. Hewitt Frederick J. Derrick, Peter T. Brady, Samuel Odell, hereinafter called defendants, continuously and at all and divers times through out the period of time from December 1, 1917, to and including sai August 27, 1918, at and within said Southern Division of said Western District of Michigan, unlawfully and feloniously did con spire, combine, confederate and agree together, and with divers other persons to said grand jurors unknown, to commit an offense against the United States, to wit, the offense on the part of said Truman H Newberry of wilfully violating the Act of Congress approved June 25, 1910, as amended by the Acts of August 19, 1911, and August 23, 1912, by giving, contributing, expending and using and be causing to be given, contributed, expended and used, in procuring his nomination as such Senator at said primary election, a sum, in the aggregate, in excess of the amount which he might lawfully give, contribute, expend, or use, or cause to be given, contributed, ex pended or used for such purpose under the laws of said State of Michigan, to wit, the sum of one hundred thousand dollars, and by giving, contributing, expending and using and causing to be given contributed, expended and used in procuring his nomination as such Senator, at said primary election, a sum, in the aggregate, in excess of ten thousand dollars, to wit, said sum of one hundred thousand dollars, and on the part of said other defendants of aiding, counseling inducing and procuring said Truman H. Newberry so to give, con tribute, expend and use and cause to be given, contributed, expended and used said large sum of money in excess of the amounts permitted by the laws of the State of Michigan and the said Acts of Congress, the same to be money so unlawfully given, contributed, expended and used by said Truman H. Newberry and by him caused to be given, contributed, expended and used as such candidate for the following and other purposes, objects and things, to wit:

Advertisements in newspapers and other publication;

Print paper, cuts, plates and other supplies furnished to newspaper publishers;

Subscription to newspapers;

Production, distribution and exhibition of moving pictures;

Traveling and subsistence expenses of campaign managers, public speakers, secret propagandists, field, district and county agents and solicitors, and of voters not infirm or disabled;

Compensation of campaign managers, public speakers and secret

propagandists, and of field, district and county agents and solicitors;

Appropriating and converting to the use of the defendants themselves, and each of them, large sums of money under the guise and pretence of payment of their expenses and compensation for their services:

Rent of offices and public halls;

Bribery of election officials;

Unlawful assistance of election officials;

Bribery of voters;

Expenses and compensation of Democratic obstructionist candidates at the primary election;

Expenses and compensation of detectives;

Dinners, banquets and other entertainments given to persons believed to be influential in said State of Michigan;

And no part of which said money was to be money expended by said Truman H. Newberry, as such candidate, to meet or discharge assessments, fees, or charges made or levied upon candidates by the laws of said State, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), or for distributing letters, circulars, or posters, or for telegraph or telephone service or for proper legal expenses in maintaining or contesting the results of said elections.

Overt Acts.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present, that certain of said defendants, at the divers times and places in that behalf in the first count of this indictment mentioned in connection with their respective names, did do certain acts to effect the object of the unlawful and felonious conspiracy, combination, confederation and agreement in this count described; that is to say, the acts set forth in said first count, under the heading "Overt Acts," numbered 1 to 30, both inclusive; the same being here again alleged and charged, by reference to said first count, to the same extent as if herein repeated and set forth.

Conclusion.

And so the grand jurors aforesaid, upon their oaths aforesaid, do say, that said defendants, continuously and at all and divers times throughout the period of time in this count mentioned, at and within said division and district, in manner and form in this count aforesaid, unlawfully and feloniously did conspire to commit an offense against the United States, and certain of them did do acts to effect the object of the conspiracy. Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Third Count.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present, that from August 27, 1918, to and including November 5, 1918, said Truman H. Newberry and said Henry Ford, by reason of their election and nomination at said primary election became and were opposing candidates for election to the office of Senator in the Congress of the United States from said State of Michigan at the general held in said State on said November 5, 1918, under the laws of said State—said Truman H. Newberry of the Republican Party and said Henry Ford of the Democratic Party—each of said candidates having on said November 5, 1918, attained to the age of thirty years and upwards and been a citizen of the United States for more than nine years, and each then being an inhabitant and resident of said State; and that said Truman H. Newberry, Fred H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith, Ellery V. Chilson, William J. Mickel, Clarence L. Sibben, Mark T. McKee, James F. McGregor, Frank W. Blair, William L. Calhoun, Zalie R. Clago, Roger M. Andrews, Judd Yelland, Louis Burr, Richard H. Fletcher, Alexander C. Green, Frank O. Gilbert, George S. Judd, Edward O. McLean, Benjamin F. Reed, Charles Tufts, Arthur H. Wentz, Terry T. Corliss, Roman F. Gladeski, William T. Hosier, William E. Rice, James R. Davis, James W. Helme, James B. Hoskins, Harrison Merrill, Elmer E. Smith, Fred Henry, Charles A. Campbell, John M. Harris, George W. John, J. Scott Hunter, George F. Rogers, Wick O'Connell, George W. Welsh, Lewis L. Thompson, Allan K. Moore, William B. Wilson, Clyde J. Watt, William H. Smith, Jr., Myron J. Sherwood, Timothy H. Ryan, Edward Nowak, Daniel C. Laughlin, Frank Guiman, August Field, Frank L. Covert, James B. Burns, Neal R. Walsh, Judd Ryno, Emory Mills, Fred L. Keister, James F. Fisher, Henry R. Dotsch, James Dailey, Albert H. Burger, Charles L. Carpenter, Charles H. Farrell, Frank D. McKay, Thaddeus C. Sadler, Thomas Bigger, Edward W. Fehling, Frank Ford, Rola E. Prescott, Robert Tetro, Dan Kennedy, John Cawood, William Connelly, Fay G. Dunning, James B. Bradley, Edwin Goodwin, Fred W. Castator, Earl J. Davis, Fred K. Cronenwett, Ray F. Colwell, Charles V. De Land, Will S. Darling, Christian J. Brosek, Gladstone R. Beattie, Karl B. Matthews, Fred M. Northrop, James Swain, Joshua T. Boyd, Benjamin Gero, Anton Boshek, Foster Cameron, Guy L. Inoalls, F. Bruce Laing, De Witt Brown, Henry Myers, William Trebilcock, John W. Dunn, William S. Crosbassa, Archie Anderson, Glenn L. Williams, Carlos A. Reading, Paul Woodworth, Carl Mosier, Earl Fairbanks, Frank P. Bohn, John Jones, Elmer E. White, Silas J. McGregor, William E. Lewis, Edward J. Bowman, Dudley C. Houk, Ernest C. Smith, John C. Rittenhouse, Alfred F. Crawford, Mell R. Deo, Willis V. Curren, William Priedeau, James Deevey, George Corrigan, John Wooles, Claud Vanderveen, Albert Taylor, Hugh Maddigan, John P. Hewitt,

Frederick J. Derrick, Peter T. Brady, Samuel Odell, hereinafter called defendants, continuously and at all and divers times throughout the period of time from December 1, 1917, to and including said November 5, 1918, at and within said Southern Division of said Western District of Michigan, unlawfully and feloniously did conspire, combine, confederate and agree together, and with divers other persons to said grand jurors unknown, to commit an offense against the United States, to wit, the offense on the part of said Truman H. Newberry of willfully violating the Act of Congress approved June 25, 1910, as amended by the Acts of August 19, 1911, and August 23, 1912, by giving, contributing, expending and using and by causing to be given, contributed, expended and used, in procuring his election as such Senator at said general election, a sum, in the aggregate, in excess of the amount which he might lawfully give, contribute, expend, or use, or cause to be given, contributed, expended or used for such purpose under the laws of said State of Michigan, to wit, the sum of one hundred thousand dollars, and by giving, contributing, expending and using and causing to be given, contributed, expended and used in procuring his election as such Senator, at said general election, a sum, in the aggregate, in excess of ten thousand dollars, to wit, said sum of one hundred thousand dollars, and on the part of said other defendants of aiding, counseling, inducing and procuring said Truman H. Newberry so to give, contribute, expend and use and cause to be given, contributed, expended and used said large sum of money in excess of the amounts permitted by the laws of the State of Michigan and the said Acts of Congress; the same to be money so unlawfully given, contributed, expended and used by said Truman H. Newberry and by him caused to be given, contributed, expended and used as such candidate for the following and other purposes, objects and things, to wit:

Advertisements in newspapers and other publications;

Print paper, cuts, plates and other supplies furnished to newspaper publishers;

Subscriptions to newspapers;

Production, distribution and exhibition of moving pictures;

Traveling and subsistence expenses of campaign managers, public speakers, secret propagandists, field, district and county agents and solicitors, and of voters not infirm or disabled;

Compensation of campaign managers, public speakers and secret propagandists, and of field, district and county agents and solicitors;

Appropriating and converting to the use of the defendants themselves, and each of them, large sums of money under the guise and pretence of payment of their expenses and compensation for their services;

Rent of offices and public halls;

Bribery of election officials;

Unlawful assistance of election officials;

Bribery of voters;

Expenses and compensation of detectives;

Dinners, banquets and other entertainments given to persons believed to be influential in said State of Michigan;

And no part of which said money was to be money expended
said Truman H. Newberry, as such candidate, to meet or disch
assessments, fees, or charges made or levied upon candidates by
laws of said State, or for his necessary personal expenses, incu
for himself alone, for travel and subsistence, stationery and post
writing or printing (other than in newspapers), or for distribu
letters, circulars, or posters, or for telegraph or telephone servic
for proper legal expenses in maintaining or contesting the result
said election.

Overt Acts.

And the grand jurors aforesaid, upon their oaths aforesaid, do
ther present, that certain of said defendants, at the divers times
places in that behalf in the first count of this indictment mentio
in connection with their respective names, did do certain acts t
fect the object of the unlawful and felonious conspiracy, combi
tion, confederation and agreement in this count described; that i
say, the acts set forth in said first count, under the heading "O
Acts," numbered 1 to 38, both inclusive; the same being here a
alleged and charged, by reference to said first count, to the same
tent as if herein repeated and set forth.

Conclusion.

And so the grand jurors aforesaid, upon their oaths aforesaid,
say, that said defendants, continuously and at all and divers ti
throughout the period of time in this count mentioned, at and wit
said division and district, in manner and form in this count af
said, unlawfully and feloniously did conspire to commit an offe
against the United States, and certain of them did do acts to eff
the object of the conspiracy. Against the peace and dignity of
United States, and contrary to the form of the statute of the sam
such case made and provided.

Fourth Count.

And the grand jurors aforesaid, upon their oaths aforesaid, do f
ther present that said Truman H. Newberry, Chase S. Osbo
Henry Ford and William B. Simpson, before and on August
1918, were candidates for the Republican nomination for the of
of Senator in the Congress of the United States from the State
Michigan, at the primary election held in said State on that d
under the laws of said State, and Henry Ford and James Helm,
fore and on said August 27, 1918, were candidates for the Dem
cratic nomination for the same office at said primary election; t
from said August 27, 1918, to and including November 5, 1918, s
Truman H. Newberry and said Henry Ford, by reason of their el
tion and nomination at said primary election, became and were
posing candidates for election to the office of Senator in the Congr
of the United States from said State of Michigan at the general el

tion held in said State on said November 5, 1918,—said Truman H. Newberry of the Republican Party and said Henry Ford of the Democratic Party,—each of said candidates having on said August 27, 1918, and said November 5, 1918, attained to the age of thirty years and upwards and been a citizen of the United States for more than nine years, and each then being an inhabitant and resident of said State; and that said Truman H. Newberry, Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Mickel, Clarence L. Sidden, Mark T. McKee, James F. McGregor, Frank W. Blair, William L. Calnon, Zalie B. Clago, Roger M. Andrews, Judd Yeland, Louis Burr, Richard H. Fletcher, Alexander C. Green, Frank O. Gilbert, George S. Ladd, Edward O. McLean, Benjamin F. Reed, Charles Tufts, Arthur H. Wentz, Terry T. Corliss, Roman F. Grocheski, William T. Hosner, William E. Rice, James R. Davis, James W. Helme, James B. Haskins, Harrison Merrill, Elmer E. Smith, Fred Henry, Charles A. Campbell, John M. Harris, George W. John, J. Scott Hunter, George E. Rogers, Wick O'Connell, George W. Welch, Lewis L. Thompson, Allan K. Moore, William B. Wilson, Clyde J. Watt, William H. Smith, Jr., Myron J. Sherwood, Timothy H. Ryan, Edward Nowack, Daniel C. Laughlin, Frank Grinnan, August Field, Frank L. Covert, James B. Burns, Neal R. Walsh, Judd Ryno, Emory Mills, Fred L. Keister, James F. Fisher, Henry R. Dotsch, James Dailey, Albert H. Burger, Charles L. Carpenter, Charles H. Farrell, Frank D. McKay, Thaddeus C. Sojey, Thomas Bigger, Edward W. Fehling, Frank Ford, Rola E. Prescott, Robert Tetro, Dan Kennedy, John Cawood, William Connelly, Fay G. Dunning, James B. Bradley, Edwin Goodwin, Fred W. Castator, Earl J. Davis, Fred K. Cronenwett, Ray E. Colwell, Charles V. De Land, Will S. Darling, Christian J. Broeck, Gladstone R. Beattie, Karl B. Matthews, Fred M. Northrop, James Swain, Joshua L. Boyd, Benjamin Gero, Anton Bushak, Foster Cameron, Guy L. Ingalls, E. Bruce Laing, De Witt Brown, Henry Myers, William Trebilcock, John W. Dunn, William S. Creshassa, Archie Anderson, Glenn L. Williams, Carlos A. Reading, Paul Woodworth, Carl Moser, Earl Fairbanks, Frank P. Bohn, John Jones, Elmer E. White, Silas J. McGregor, William E. Lewis, Edward J. Bowman, Dudley C. Houk, Ernest C. Smith, John C. Rittenhouse, Alfred F. Crawford, Mell R. Doo, Willis V. Capron, William Priedeau, James Deevey, George Carrigan, John Wagley, Claud Vanderveen, Albert Taylor, Hugh Maddigan, John P. Hewitt, Frederick J. Derrick, Peter T. Brady, Samuel Odell, hereinafter called defendants, continuously and at all and divers times throughout the period of time from December 1, 1917, to and including said November 5, 1918, at and within said Southern Division of said Western District of Michigan, unlawfully and feloniously did conspire, combine, confederate and agree together, and with divers other persons to said grand jurors unknown, to commit an offense against the United States, to-wit, the offense on the part of said Truman H. Newberry of wilfully violating the Act of Congress approved June 25, 1910, as amended by the

Acts of August 19, 1911, and August 23, 1912, by giving, contrib
ting, expending and using and by causing to be given, contribute
expended and used, in procuring his nomination and election as a
Senator at said primary and general elections, a sum, in the aggr
gate, in excess of the amount which he might lawfully give, contri
ute, expend, or use, or cause to be given, contributed, expended
used for such purpose under the laws of said State of Michigan, t
wit, the sum of one hundred thousand dollars, and on the part
said other defendants of aiding, counseling, inducing and procuri
said Truman H. Newberry so to give, contribute, expend and use
cause to be given, contributed, expended and used said large sum
money in excess of the amounts permitted by the laws of the Sta
of Michigan and the said Acts of Congress; the same to be money
unlawfully given, contributed, expended and used by said Truma
H. Newberry and by him caused to be given, contributed, expend
and used as such candidate for the following and other purposes, o
jects and things, in excess of the amount permitted by the laws
said State of Michigan to be given, contributed, expended and us
for such purposes, objects and things, to-wit:

Traveling expenses and personal expenses incident thereto, fo
printing, stationery, advertising, postage, expressage, freight, tel
graph, telephone and public messenger services;

Dissemination of printed information to the public;

Political meetings, demonstrations and conventions;

The rent, maintenance and furnishing of offices;

The payment of clerks, typewriters, stenographers, janitors, an
messengers actually employed;

The employment of challengers at primaries and elections;

The payment of public speakers and musicians at public meeting
and their necessary traveling expenses;

Copying and classifying of election registers or poll lists and in
vestigating the right to vote of the persons listed or registered therein
and conducting proceedings to purge the registers and lists, and pre
vent improper or unlawful registration or voting;

Making canvasses of voters;

Conveying infirm or disabled voters to and from the polls;

Employing as counsel, attorneys licensed to practice in accordance
with the laws of the State, and for the necessary expenses of such
counsel;

And also for the following and other purposes, objects and things
for which the giving, contributing, expending and using of money
was prohibited by the laws of said State of Michigan, to-wit:

Appropriating and converting to the use of the defendants them
selves, and each of them, large sums of money under the guise and
pretense of payment of their expenses and compensation for their
services;

Bribery of election officials;

Unlawful assistance of election officials;

Bribery of voters;

Expenses and compensation of Democratic obstructionist candi
dates at the primary election;

Expenses and compensation of detectives.

Overt Acts.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present, that certain of said defendants, at the divers times and places in that behalf in the first count of this indictment mentioned in connection with their respective names, did do certain acts to effect the object of the unlawful and felonious conspiracy, combination, confederation and agreement in this count described; that is to say, the acts set forth in said first count, under the heading "Overt Acts," numbered 1 to 38, both inclusive; the same being here again alleged and charged, by reference to said first count, to the same extent as if herein repeated and set forth.

Conclusion.

And so the grand jurors aforesaid, upon their oaths aforesaid, do say, that said defendants, continuously and at all and divers times throughout the period of time in this count mentioned, at and within said division and district, in manner and form in this count aforesaid, unlawfully and feloniously did conspire to commit an offense against the United States, and certain of them did do acts to effect the object of the conspiracy; Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Fifth Count.

And the grand jurors aforesaid upon their oaths aforesaid, do further present, that said Truman H. Newberry and said Henry Ford, before and on November 5, 1918, were opposing candidates for election to the office of Senator in the Congress of the United States from said State of Michigan at the general election held in said State on that day under the laws of said State,—each of said candidates then having attained the age of more than thirty years and been a citizen of the United States for more than nine years, and each then being an inhabitant and resident of said State; and that said Truman H. Newberry, Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry V. Hopkins, Frederick Coty, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Mickel, Clarence L. Sibley, Mark T. McKee, James F. McGregor, Frank W. Blair, William L. Calhoun, Zalie B. Clapp, Roger M. Andrews, Judd Yellatel, Louis Burr, Richard H. Fletcher, Alexander C. Green, Frank O. Gillett, George S. Ladd, Edward O. McLean, Benjamin F. Reed, Charles Tufts, Arthur H. Wentz, Terry T. Corliss, Roman F. Gbelinski, William T. Hewer, William E. Rice, James E. Davis, James W. Helme, James B. Haskins, Harrison Merrill, Elmer E. Smith, Fred Henry, Charles A. Campbell, John M. Harris, George W. Jobst, J. Scott Hunter, George E. Rogers, Wirt O'Connell, George W. Welch, Lewis L. Thompson, Allan K. Moore, William B.

Wilson, Clyde J. Watt, William H. Smith, Jr., Myron J. Sherwood, Timothy H. Ryan, Edward Nowack, Daniel C. Laughlin, Frank Guinan, August Field, Frank L. Covert, James B. Burns, Neal R. Walsh, Judd Ryno, Emory Mills, Fred L. Keister, James F. Fisher, Henry R. Detech, James Bailey, Albert H. Burger, Charles L. Carpenter, Charles H. Farrell, Frank D. McKay, Thaddeus C. Seeley, Thomas Bigger, Edward W. Fehling, Frank Ford, Reda E. Prescott, Robert Tetro, Dan Kennedy, John Cawood, William Connelly, Fay G. Dunning, James B. Bradley, Edwin Goodwin, Fred W. Castator, Earl J. Davis, Fred K. Crouchwett, Ray E. Colwell, Charles V. De Land, Will S. Darling, Christian J. Broeck, Gladstone R. Beattie, Karl B. Matthews, Fred M. Northrup, James Swain, John L. Boyd, Benjamin Cero, Anton Buchak, Foster Cameron, Guy L. Ingalls, E. Bruce Laing, De Witt Brown, Henry Myers, William Trebilcock, John W. Dunn, William S. Crosbassa, Archie Anderson, Glenn L. Williams, Carlos A. Reading, Paul Woodworth, Carl Mosier, Earl Fairbanks, Frank P. Bohn, John Jones, Elmer E. White, Silas J. McGregor, William E. Lewis, Edward J. Bowman, Dudley C. Hook, Ernest C. Smith, John C. Rittenhouse, Alfred F. Crawford, Mell R. Deo, Willis V. Capron, William Friedeau, James Deevey, George Corrigan, John Wagley, Claud Vandervoen, Albert Taylor, Hugh Maddigan, John P. Dewitt, Frederick J. Derrick, Peter T. Brady, Samuel Odell, defendants as aforesaid, continuously and at all and divers times throughout the period of time from October 16, 1918, to and including said November 5, 1918, at and within said Southern Division of said Western District of Michigan, unlawfully and feloniously did conspire, combine, confederate and agree together, and with divers other persons to said grand jurors unknown, to commit a great number, to-wit, one thousand, offenses against the United States, each to consist of giving money and things of value to a person to vote for said Truman H. Newberry at said election, and a great number, to-wit, one thousand, other offenses against the United States, each to consist of giving money and things of value to a person to withhold his vote from said Henry Ford at said election.

Overt Acts.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present, that certain of said defendants, at the divers times and places in that behalf in the first count of this indictment mentioned in connection with their respective names, did do certain acts to effect the object of said unlawful and felonious conspiracy, combination, confederation and agreement last aforesaid; that is to say, the acts set forth in said first count, under the heading "Overt Acts," numbered 31 to 58, both inclusive; the same being here again alleged and charged, by reference to said first count, to the same extent as if herein repeated and set forth.

Conclusion.

And so the grand jurors aforesaid, upon their oaths aforesaid, do say, that said defendants, continuously and at all times throughout said period of time, at and within said division and district, in manner and form aforesaid, unlawfully and feloniously did conspire to commit offenses against the United States and certain of them did do acts to effect the object of the conspiracy; Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Sixth Count.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present, that said Truman H. Newberry, Chase S. Osborne, Henry Ford and William B. Simpson, before and on August 27, 1918, were candidates for the Republican nomination for the office of Senator in the Congress of the United States from the State of Michigan at the primary election held in said State on that day under the laws of said State, and said Henry Ford and James Helm, before and on said August 27, 1918, were candidates for the Democratic nomination for the same office at said primary election; that from said August 27, 1918, to and including November 5, 1918, said Truman H. Newberry and said Henry Ford, by reason of their election and nomination at said primary election, became and were opposing candidates for election to the office of Senator in the Congress of the United States from said State of Michigan at the general election held in said State on said November 5, 1918, said Truman H. Newberry of the Republican Party and said Henry Ford of the Democratic Party,—each of said candidates, on said November 5, 1918, having attained to the age of thirty years and upwards and been a citizen of the United States for more than nine years, and each then being an inhabitant and resident of said State; and that said Truman H. Newberry, Paul H. King, Allan A. Templeton, Thomas P. Phillips, B. Frank Emery, Charles A. Floyd, Harry A. Hopkins, Frederick Cody, John S. Newberry, Milton Oakman, Harry O. Turner, Frederick P. Smith, Elbert V. Chilson, William J. Mickel, Clarence L. Sibben, Mark T. McKee, James F. McGregor, Frank W. Blair, William L. Cahoon, Zalie B. Clago, Roger M. Andrews, Judd Yelland, Louis Burr, Richard H. Fletcher, Alexander C. Green, Frank O. Gilbert, George S. Ladd, Edward O. McLean, Benjamin F. Reed, Charles Tufts, Arthur H. Wentz, Terry T. Corliss, Roman F. Glocheski, William T. Hosier, William E. Rice, James R. Davis, James W. Helme, James B. Haskins, Harrison Merrill, Elmer E. Smith, Fred Henry, Charles A. Campbell, John M. Harris, George W. John, J. Scott Hunter, George E. Rogers, Wick O'Connell, George W. Welsh, Lewis L. Thompson, Allan K. Moore, William B. Wilson, Clyde J. Watt, William H. Smith, Jr., Myron J. Sherwood, Timothy H. Ryon, Edward Nowack, Daniel C. Laughlin, Frank Guinan, August Field, Frank L. Covert, James B. Burns, Neal R.

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which said scheme and artifice to defraud then and there, according to said conspiracy, were to be unlawfully accomplished by the following acts and means among others, to-wit, by—

First, certain of said defendants contributing to divers funds, for use in promoting said candidacy of said Truman H. Newberry for said office of Senator in said primary and general elections, large sums of money in the aggregate exceeding, as said defendants would and did well know, the sums allowed to be expended for such use either under the laws of said State or of the United States;

Second, inducing persons who might be willing or might be procured to make contributions to said funds, for the use aforesaid, to contribute sums of money, in the aggregate exceeding, as said defendants would and did well know, the sums allowed to be expended for such use either under the laws of said State or of the United States, and in that connection making false representations to such persons as to the total amount of the money already so contributed, or which might be contributed, and the uses to which the same had been and was to be put, and omitting to tell said citizens the truth as to those matters;

Third, many of said defendants unlawfully appropriating and converting large portions of said moneys so contributed to said funds, aggregating a large sum, to-wit, the sum of one hundred thousand dollars to their own use and benefit.

Fourth, appropriating other large portions of said money so contributed, aggregating a large sum, to-wit, upwards of one hundred thousand dollars, and paying the same:

To publishers of newspapers and other publications in different cities, towns and villages throughout said State of Michigan for advertising in their newspapers and other publications said candidacy of said Truman H. Newberry at said primary and general elections;

To campaign managers, public speakers, secret propagandists and field, district and county agents and solicitors, many of said defendants being such, for their compensation and expenses in connection with their efforts to procure voters to vote for said Truman H. Newberry and to withhold their votes from said Henry Ford, Chase S. Osborne and William B. Simpson at said primary election and from said Henry Ford at said general election;

To the owners of buildings containing offices and public halls, for the use of such offices and public halls by such campaign managers, public speakers, and field, district and county agents in connection with said candidacy of said Truman H. Newberry;

To hotel keepers and caterers for dinners, banquets and other entertainments furnished by them to persons believed to be influential in said State of Michigan for inducing them to favor said candidacy of said Truman H. Newberry;

To said James Helm for his compensation and expenses in seek-

ing nomination to said office of Senator at said primary elections for the purpose of aiding said candidacy of said Truman H. Newberry at said elections;

To Republican candidates for county offices in said State in aid of their candidacy, upon condition that they were to favor and work in behalf of said Truman H. Newberry and against said other Republican candidates for said office of Senator at said primary election;

To qualified voters at said primary and general elections for voting for said Truman H. Newberry, and to other qualified voters at said general election for withholding their votes from said Henry Ford and at said primary election for withholding their votes from said other candidates for said office of Senator;

To election officials at said primary and general election for unlawfully favoring said candidacy of said Truman H. Newberry.

To postmasters for postage on letters, circulars and advertisements pertaining to said candidacy of said Truman H. Newberry at said primary and general elections; and to telegraph and telephone companies for messages pertaining to said candidacy of said Truman H. Newberry at said primary and general elections;

Fifth, threatening Republican candidates for county offices at said primary and general elections with bringing about their defeat at said elections if they did not favor said candidacy of said Truman H. Newberry at those elections and assist in securing his election thereat;

Sixth, giving promises and pledges, before the completion of said elections respectively, to voters and other persons, for the purpose of procuring their support of said Truman H. Newberry in his said candidacy at said elections, relative to the appointment and recommendation for appointment of such persons to positions of trust, honor, and profit, in said State, in the several counties thereof, and under the authority of the United States, as well as in private and corporate employment; and,

Seventh, preparing, and procuring the preparation of, and filing in the office of the County Clerk of the County in which said Truman H. Newberry resided, to-wit, Wayne County, in said State, accounts and statements purporting to set forth each and every sum received and disbursed for and on account of the election expenses of said Truman H. Newberry as such Senator, but in fact setting forth only a small number of said sums so received and disbursed; and wilfully failing and refusing so to prepare, make and file in said office of said County Clerk truthful accounts and statements in that behalf, as required by law.

Overt Acts.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present, that certain of said defendants, at the divers times and places in that behalf in the first count of this indictment men-

tioned in connection with their respective names, did do certain acts to effect the object of the unlawful and felonious conspiracy, combination, confederation and agreement in this count described; that is to say, the acts set forth in said first count, under the heading "Overt Acts," numbered 1 to 38, both inclusive; the same being here again alleged and charged, by reference to said first count to the same extent as if herein repeated and set forth; and, in addition to said acts, among others, the following, to-wit:

39. Said Paul H. King, on March 15, 1918, at Detroit, Michigan, mailed a letter directed to A. A. Anderson at Hastings, Michigan.

40. Said Harry A. Hopkins, on May 15, 1918, at Detroit, Michigan, mailed a circular directed to Frank N. Wakeman, at Paw Paw, Michigan, of the tenor following, to-wit:

Truman H. Newberry,

For Republican Nomination for United States Senator,

310 Ford Building,

Detroit.

State Committee:

A. A. Templeton,
General Chairman.
Paul H. King,
Chairman Executive Committee.
Chas. A. Floyd,
Secretary.
H. A. Hopkins,
Director of Publicity.

To the Publisher Addressed:

There is going forward to you by parcel post today an electro for a seven-inch double column paid announcement for the Newberry Senatorial Committee to be run in your weekly issue the week ending June 1st, pursuant to our contract with you.

This announcement is for one insertion only. Other electros will be sent you from week to week.

A news story, proof of which is enclosed, concerning the work of the Naval Reserves is also going to you in plate form. I hope you will be able to find room for this plate in an early issue, it being one of the non-political stories for which we requested free insertion in a former letter.

We hope this initial announcement, and others to follow in the weeks to come, may be effective and that we may have your co-operation in making the publicity pull.

Cordially yours,

H. A. HOPKINS.

41. Said Truman H. Newberry, on May 16, 1918, at New York City, New York, mailed a letter directed to A. A. Anderson at Hastings, Michigan.

42. Said Elbert V. Chilson, on July 8, 1918, at Detroit, Michigan, mailed a circular letter to A. H. Berger, directed to Hon. Benton Harbor, Michigan.

43. Said Paul H. King, on July 17, 1918, at Detroit, Michigan, mailed a letter directed to J. M. Harris at Boyne City, Michigan, of the tenor following, to-wit:

Truman H. Newberry,

For Republican Nomination for United States Senator,

310 Ford Building,

Detroit.

State Committee:

A. A. Templeton,
General Chairman.
Paul H. King,
Chairman Executive Committee.

July 17, 1918.

Hon. J. M. Harris,
Boyne City, Michigan.

MY DEAR JUDGE:

I am indeed sorry that I was not in the office when you were here last Wednesday but I am glad that you had such a good talk with Mr. Emery and Mr. Chilson in regard to the situation.

There is no doubt that there is a lot of work to be done yet. How is the organization coming in Charlevoix?

I note what you say about Otsego county. As you say, Mr. Phelps is very active in behalf of Commander Newberry and I feel sure that he will give a good account and we have no fear of the result there.

With kindest regards and the hope that I may see you at no distant date, I remain,

Sincerely yours,

PAUL H. KING.

P. H. K./M. H. H.

44. Said Charles A. Floyd, on August 28, 1918, at Grand Rapids, Michigan, mailed a letter to Gladstone R. Beattie, directed to Paw Paw Michigan, asking said Gladstone R. Beattie for a statement of campaign expenses.

45. Said Charles A. Floyd, on August 31, 1918, at Grand Rapids, Michigan, mailed a letter to Archie A. Anderson, directed to said Archie A. Anderson at Hastings, Michigan.

46. Said Paul H. King, on August 31, 1918, at Detroit, Michigan, mailed a letter to Frank N. Wakeman, directed to him at Paw Paw, Michigan.

47. Said Harry O. Turner, on October 14, 1918, at Detroit, Michigan, mailed a letter to Harry W. Jackson, directed to him at Muskegon, Michigan.

48. Said Charles A. Floyd, on October 17, 1918, at Detroit, Michigan, mailed a letter to Gladstone R. Beattie, directed to said Gladstone R. Beattie at Paw Paw, Michigan.

Conclusion.

And so the grand jurors aforesaid, upon their oaths aforesaid, do say, that said defendants, continuously and at all times throughout the period of time in this count mentioned, at and within said division and district, in manner and form in this count aforesaid, unlawfully and feloniously did conspire to commit offenses against the United States, and certain of them did do acts to effect the object of the conspiracy; Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

FRANK C. DAILEY,
Special Assistant to the Attorney General.

H. DALE SOUTER and
OLIVER E. PAGAN,
Special Assistants to the Attorney General.

[Endorsed:] No. 1848. United States District Court. Western District of Michigan. Southern Division. The United States of America vs. Truman H. Newberry et al and 134 others. Indictment on Secs. 37 and 332 Criminal Code. Conspiracy to violate act June 25, 1910, as amended, act Oct. 16, 1918, and Sec. 215 Criminal Code. A true bill. Robert H. Sherman, foreman. Filed this 29th day of November, A. D. 1919. Chas. J. Potter, Clerk.

[Endorsed:] File No. 27,916. Supreme Court U. S., October Term, 1920. Term No. 559. Truman H. Newberry et al., plffs. in error, vs. The United States. Stipulation for correction of record and addition to record. Filed Nov. 6, 1920.

NOV 13 1920

No. 559.

In the Supreme Court of the United States.

OCTOBER TERM, 1920.

TRUMAN H. NEWBERRY ET AL., PLAINTIFFS IN ERROR,

v.

THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MICHIGAN.

MOTION TO ADVANCE.

In the Supreme Court of the United States.

OCTOBER TERM, 1920.

TRUMAN H. NEWBERRY ET AL., PLAINTIFFS in error,
v.
THE UNITED STATES OF AMERICA.
No. 559.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MICHIGAN.

MOTION TO ADVANCE.

Comes now the Solicitor General and moves the court to advance this cause and set it for hearing on January 3, 1921.

The 17 plaintiffs in error were convicted of a conspiracy to violate the act of Congress known as the Corrupt Practices Act, in connection with the nomination and election of a United States Senator in Michigan. One of the plaintiffs in error was elected Senator in the election referred to. The case is therefore one of great public interest. It is also of public importance because it involves an attack upon the constitutionality of the Corrupt Practices Act. If the judgment is affirmed, the plaintiff in error, Truman H. Newberry, can no

longer hold the seat in the United States Senate to which he was elected. On the other hand, if the judgment must be reversed, it is of great importance not only to the people of the State of Michigan but to the people of the United States that the cloud which it places upon his title be promptly removed. Whether, therefore, the judgment is to be affirmed or reversed, the case should be advanced and heard at an early date.

Opposing counsel concur in this motion.

Respectfully submitted.

WILLIAM L. FRIERSON,
Solicitor General.

NOVEMBER, 1920.

○

IN THE

Supreme Court of the United States

OCTOBER TERM, 1920.
No. 559.

TRUMAN H. NEWBERRY, *et al.*,
Plaintiffs in Error,

vs.

THE UNITED STATES OF AMERICA.

In Error to the District Court of the United States for the Western District of Michigan, Southern Division.

BRIEF FOR PLAINTIFFS IN ERROR.

JAMES O. MURFIN,
Attorney for Plaintiffs in Error

CHARLES E. HUGHES,
MARTIN W. LITTLETON,
GEORGE E. NICHOLS,
Of Counsel

B. H. TYRRELL, PRINTER, 209-6 FULTON STREET, NEW YORK.

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IN THE

Supreme Court of the United States,

OCTOBER TERM, 1920.

No. 559.

TRUMAN H. NEWBERRY, et al.,
Plaintiffs in Error,

vs.

THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION.

BRIEF FOR PLAINTIFFS IN ERROR.

Statement.

This is a writ of error to the District Court of the United States for the Western District of Michigan, Southern Division, to review a judgment of conviction. The plaintiffs in error are Truman H. Newberry, United States Senator from the State of Michigan, and sixteen individuals who participated in the campaign leading to his nomination and election. As there is a constitutional question

involved, the writ of error runs directly from this Court to the District Court.

The indictment contained six counts, each one charging a conspiracy on the part of the defendants to violate certain Acts of Congress. All the counts but the first and sixth were eliminated by dismissal or consolidation (Transcript of Record, pp. 630, 926). And the jury returned a verdict of not guilty on the sixth count (*id.* p. 955).

The conviction was thus had only upon the first count of the indictment, with which the fourth count had been consolidated (*id.* pp. 926, 955).

This count was for a conspiracy to violate the Act of June 25, 1910, c. 392 (36 Stat. 822-824), as amended by the Acts of August 19, 1911, c. 33 (37 Stat. 25-29), and August 23, 1912, c. 349 (37 Stat. 360).

The first count alleges that Truman H. Newberry, Chase S. Osborne, Henry Ford and William B. Simpson, before and on August 27, 1918, were candidates for the Republican nomination for the office of Senator in the Congress of the United States from the State of Michigan at the primary election held in said State on that day, under the laws of the State, and that Henry Ford and James Helme before and on August 27, 1918, were candidates for the Democratic nomination for the same office at the said primary election. That from said August 27, 1918, to and including November 5, 1918, said Truman H. Newberry and said Henry Ford, by reason of their nomination at the primary election, were opposing candidates for election at the general election held in said State on November 5, 1918, Newberry being the Republican nominee and Henry Ford the Democratic nominee.

The first count further alleges that said Truman H. Newberry and 134 others named as defendants,

continuously and at all the divers times throughout the period of time from December 1, 1917, to and including November 5, 1918, unlawfully and feloniously did conspire, combine, confederate and agree, together and with divers other persons to said Grand Jurors unknown, to commit an offense against the United States, to wit, the offense on the part of said Truman H. Newberry of wilfully violating the Act of Congress approved June 25, 1910, as amended by the Acts of August 19, 1911, and August 23, 1912, by giving, contributing, expending and using and by causing to be given, contributed, expended and used in procuring his nomination and election as such Senator at said primary and general election a sum in the aggregate in excess of the amount which he might lawfully give, contribute, expend or use, or cause to be given, contributed, expended or used for such purposes under the laws of said State of Michigan, to wit, the sum of $100,000, and by giving, contributing, expending and using, and causing to be given, contributed, expended and used in procuring his nomination and election as such Senator at said primary and general election a sum in the aggregate in excess of $10,000, to wit, said sum of $100,000, and on the part of said other defendants of aiding, counseling, inducing and procuring said Truman H. Newberry so to give, contribute, expend and use, and cause to be given, contributed, expended and used said large sum of money in excess of the amounts permitted by the laws of the State of Michigan and the Acts of Congress; the same to be money so unlawfully given, contributed, expended and used by said Truman H. Newberry and by him caused to be given, contributed, expended and used, as such candidate, for the following and other purposes: Advertisements in newspapers, print

paper, cuts, plates and other supplies furnished to newspaper publishers; subscriptions to newspapers; exhibition of moving pictures; traveling expenses of campaign managers and speakers, propagandists, agents and solicitors; compensation of campaign managers, public speakers and propagandists, agents and solicitors; appropriating and converting to the use of the defendants themselves, and of each of them, large sums of money under the guise and pretense of payment of their expenses and compensation for their services; rent of offices and public halls; bribery of election officials; unlawful assistance of election officials; bribery of voters; expenses and compensation of Democratic obstructionist candidates at the primary election; expenses of detectives; dinners, banquets and other entertainments.

The first count then sets forth a series of overt acts.

The Statute.

This conviction was based entirely upon expenditures of money for campaign purposes in excess of an alleged statutory limit. This limit concerned only the expenditures of the candidate. It should be understood at the outset that it is merely the exceeding of this statutory limit that forms the basis of the conviction and that neither Senator Newberry nor the other defendants have been convicted of expending any moneys for any improper purpose.

There was a count in the indictment (the Fifth Count) charging conspiracy to bribe and corrupt voters, but this count was dismissed by the District Court.

The statute invoked does not deal with the *purposes* for which the money is spent, but merely with the *amount*.

The Federal statute, upon which the Government relies, was originally enacted on June 25, 1910 (36 Stat. 822-824). The particular provision fixing the limit of expenditures which it was charged that the defendants had exceeded, and had conspired to exceed, is found in Section 8 of the amending Act of August 19, 1911, c. 33, which is as follows (37 Stat. 28):

> "No candidate for Representative in Congress or for Senator of the United States shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election, any sum in the aggregate, in excess of the amount which he may lawfully give, contribute, expend or promise under the laws of the State in which he resides: *Provided*, That no candidate for Representative in Congress shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding five thousand dollars in any campaign for his nomination and election; and no candidate for Senator of the United States shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding ten thousand dollars in any campaign for his nomination and election: *Provided further*, that money expended by any such candidate to meet and discharge any assessment, fee, or charge made or levied upon candidates by the laws of the State in which he resides, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), and distributing letters, circulars, and posters, and for telegraph and telephone service, shall not be regarded as an expenditure within

> the meaning of this section, and shall not be considered any part of the sum herein fixed as the limit of expense and need not be shown in the statements herein required to be filed."

This, and the other offenses described in the Act as amended, were qualified by the concluding section of the original Act which conditioned the penalty upon a *willful* violation as follows (36 Stat. 824):

> "Sec. 10. That every person willfully violating any of the foregoing provisions of this Act shall, upon conviction, be fined not more than one thousand dollars or imprisoned not more than one year, or both."

This section was renumbered and made section 11 by the Amending Act of August 19, 1911 (37 Stat. 26).

The Federal Act (Section 8, *supra*) refers to the amount which the candidate "*may lawfully give, contribute, expend or promise under the laws of the State in which he resides.*" At the time in question, the Michigan statute relating to this subject provided as follows (Michigan Public Acts, 1913, No. 109, Section 1, pp. 189-190):

> "Section 1. No sums of money shall be paid, and no expenses authorized or incurred by or on behalf of any candidate to be paid by him in order to secure or aid in securing his nomination to any public office or position in this State, in excess of twenty-five per cent of one year's compensation or salary of the office for which he is candidate: *Provided*, That a sum not exceeding fifty per cent of one year's salary may be expended by the candidates for Governor and Lieutenant Governor; or where the office is that of member of either branch of the Legislature of the State, the twenty-five

per cent shall be computed on the salary fixed for the term of two years: *Provided further*, That no candidate shall be restricted to less than one hundred dollars in his campaign for such nomination. No sums of money shall be paid and no expense authorized or incurred by or on behalf of any candidate who has received the nomination to any public office or position in this State, in excess of twenty-five per cent of one year's salary or compensation of the office for which he is nominated; or where the office is that of member of either branch of the Legislature of the State, the twenty-five per cent shall be computed on the salary fixed for the term of two years: *Provided*, That no candidate shall be restricted to less than one hundred dollars. No sum of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate contrary to the provisions of this Act."

It will thus be observed:

(1) That the Michigan Act, taken up by the Federal statute, only relates to the sums of money or expenses paid or incurred by the candidate himself;

(2) That the proviso in the Federal Act, fixing a limit to the amount to be contributed or expended by candidates for Representative or Senator, refers to the amount which may be given, contributed, expended, used or promised by the candidate himself.

In the present case, the evidence shows that Senator Newberry did not contribute one dollar to procure either his nomination or election. On the other hand, his business associates and friends, believing him to be better fitted for the United States Senate than Henry Ford, organized a publicity campaign in his behalf and contributed and ex-

pended moneys in support of his candidacy. This conviction is predicated upon the fact that the amounts thus expended exceeded $3,750.

The limit, fixed by the State statute, for the individual contributions and expenses of the candidate himself, both for nomination and election were taken together for the purpose of the Federal statute and the limit as above stated was thus reached. This limit was then applied not to what Senator Newberry contributed or expended, either directly or indirectly, but to what his supporters contributed and expended; and he and those prominent in the campaign have been adjudged guilty of crime on the theory that Senator Newberry participated, advised or assisted in the expenditure of an amount of money exceeding $3,750 in support of his candidacy, although the amount was voluntarily contributed by others, and that the alleged agreement that he was so to participate, advise or assist in a campaign which involved an expenditure exceeding this limit constituted a conspiracy to violate the law.

It would seem to be clear that the Federal statute, as its own provisos and its reference to the limiting provisions of the State statutes show, did not intend to embrace within its inhibition as to the candidate the amounts contributed or expended voluntarily by others in aid of his campaign.

This conviction has been obtained only by a *tour de force*, as a result of taking this statute and making it apply to a matter foreign to its intent. This was accomplished by the construction placed by the District Court upon the words "*or cause to be given, contributed, expended, used, or promised* in procuring his nomination *and election.*" Although the limit which could not be exceeded,

both under the State statute and the Federal Act, merely related to the candidate's own contribution and expenditures, the District Court seized upon these words "cause to be given, contributed, expended," etc., and brought within their range all the moneys expended in aid of the campaign, although not a dollar of them was contributed or expended by Senator Newberry himself.

The District Court construed the words "cause to be given, contributed, expended," etc., to embrace the moneys which might be raised by the procurement or assistance or even *advice* of the candidate, although the moneys were voluntarily given by others.

We may here point out the breadth of the Court's instructions to the jury in the construction of the statute, which we shall discuss later. The Court said (Transcript, pp. 940-941):

> "The phrase which constitutes the prohibition against the candidate 'Causing to be given, contributed, expended or used excessive sums of money,' is not limited and not confined to expenditures and use of money made directly and personally by himself. This prohibition extends to the expenditure and use of excessive sums of money in which the candidate actively participates, or assists, or advises, or directs, or induces, or procures. The prohibition extends not only to the expenditure and use of excessive sums of money by the candidate directly and personally, but to such use and expenditure through his agency, or procurement or assistance.
>
> "To constitute a violation of this Statute knowledge of the expenditure and use of excessive sums of money on the part of the candidate is not sufficient; neither is it sufficient to constitute a violation of this Statute that the candidate merely acquiesces in such ex-

penditures and use. But it is sufficient to constitute a violation of this Statute if the candidate actively participates in doing the things which occasion such expenditures and use of money and so actively participates with knowledge that the money is being expended and used.

"To apply these rules to this case: If you are satisfied from the evidence that the defendant, Truman H. Newberry at or about the time that he became a candidate for United States Senator was informed and knew that his campaign for the nomination and election would require the expenditure and use of more money than is permitted by law and with such knowledge became a candidate, and thereafter by advice, by conduct, by his acts, by his direction, by his counsel, or by his procurement he actively participated and took part in the expenditure and use of an excessive sum of money, of an unlawful sum of money, you will be warranted in finding that he did violate this statute known as the Corrupt Practices Act."

The statute was thus wrested from its purpose. The theory of the conviction is that the statute governs the amount which may be expended by a political organization in aid of a candidate for Senator instead of simply governing the amount which the candidate may contribute, expend or cause to be expended on his own account. This we think is plainly a wrong theory. It brings the expenditure of contributions voluntarily made by others, which the candidate does not cause in any proper or legal sense, within the range of the statute in the view that the expenditure of such moneys is contemplated by the statute if the candidate assists or advises in their expenditure. In other words, if a candidate does not contribute a

dollar himself but advises his party committee or the organization supporting his candidacy to circulate by mail copies of his speeches at a cost of $5,000, he and those engaged in the circulation would become guilty of a violation of the statute. The expenditure of the $5,000, or an amount in excess of the limit of $3,750 in Michigan, becomes a crime, and the agreement to expend it becomes a criminal conspiracy if the candidate by his conduct may be deemed to participate and assist in the plan, although none of the candidate's money, and no money which he puts up or causes to be put up on his own account, is in any way involved. It is not pretended that the expenditure of the $5,000 in the case supposed would constitute a crime if the candidate did not assist in or advise the expenditure, but the fact that a candidate properly interested in his candidacy, advises and assists with respect to the expenditure of moneys contributed by others, which may properly be expended by a political organization in the aid of his candidacy, is held to constitute an offense under this statute which had a very different object.

There was manifestly no intent on the part of Senator Newberry or of any of the defendants to violate the law, and the law was not, as we submit, violated. The good faith of these defendants is not questioned.

The sentences are appalling in their severity. For this unconscious conspiracy to violate the statute as thus sweepingly construed Senator Newberry, Frederick Cody and Paul H. King have each been sentenced to two years in Leavenworth Penitentiary and required to pay a fine of $10,000. Charles A. Floyd has been sentenced to a term of imprisonment of two years and required to pay a

fine of $5,000. Of the remaining defendants, only four were punished exclusively by fines and the sentences of the others vary from one to two years.

Facts.

For some time prior to the campaign of 1918 a candidate for office of United States Senator was required by the statutes of the State of Michigan to be nominated at a direct primary. In the course of that campaign the candidates for nomination at the Republican primary were Truman H. Newberry, Chase S. Osborn, William G. Simpson and Henry Ford. The candidates for nomination for the same office at the Democratic primary were Henry Ford and James W. Helme.

During the fall of 1917 and throughout the period covered by this trial, the principal defendant, Senator Newberry, was an officer in the American Navy stationed in New York (Transcript, pp. 75-76). He stayed at his post of duty and was not in Michigan during the entire period of the primary and election campaign of 1918 (*id.* p. 670).

In the latter part of 1917, certain representative citizens of Michigan had been urging Mr. Newberry to become a candidate for the Senate, and apparently he was giving the matter serious consideration. The defendant, Frederick Cody, suggested Jay G. Hayden, at that time the Washington correspondent for the Detroit Evening News, as campaign manager. Mr. Newberry did not know Mr. Hayden, but Mr. Cody went to Washington to see him, with the result that Mr. Hayden stated that he did not care to consider the matter. Later, Mr. Hayden went to New York and had a conver-

sation with Mr. Newberry; the subject of Mr. Hayden's taking an active part in the campaign was discussed. Mr. Hayden did not become connected with the campaign, but volunteered some advice and apparently had nothing further to do with the matter. At that time (December, 1917), Mr. Newberry had not yet determined to be a candidate, but it appears that he told Mr. Hayden that if he could not get the senatorship without a large expenditure of money he did not want it (*id.* pp. 58-61).

The defendant, Paul H. King, had been Secretary and Associate Manager of the primary campaign leading to the nomination and election of the Hon. Charles E. Townsend in 1910. He had been connected with the Michigan Legislature in both branches, as page, desk clerk, secretary of the senate, and clerk of the house. He had been secretary of the last constitutional convention. He had been one of the receivers of the Pere Marquette Railroad. He was approached by Detroit friends of Mr. Newberry with a request that he take active charge of a campaign for the nomination and election of Mr. Newberry, which they proposed to inaugurate. He was advised by these friends that a group of Detroit business associates would furnish whatever money was necessary to make the campaign a success. Because he had been active in the 1912 campaign (not with the faction with which Mr. Newberry was then connected) he thought it wise to interview Mr. Newberry in New York before accepting this undertaking. He did so and thereafter in the latter part of February, 1918, or the first of March that year he started this campaign. During his New York conference with Mr. Newberry a discussion was had as to the probable cost to Mr. Newberry's supporters of a proper

campaign, with particular reference as to what it had cost Senator Townsend's friends during his campaign. Mr. King immediately started the establishment of Detroit headquarters. He opened a temporary bank account under the name of Paul H. King, Chairman, with the Commonwealth Federal Savings Bank, the first deposit being made March 6th, 1918, amounting to $2,000, the account being closed on May 4th, 1918, showing an aggregate of deposits of $5,083.73. There was afterwards opened in the same bank an account in the name of the Newberry Senatorial Committee, which, during the progress of the campaign, showed aggregate deposits of $178,857.20—withdrawals being that amount less $2.75. Mr. Allan A. Templeton furnished the checks to Mr. King that opened this account. He was at that time President of the Detroit Board of Commerce and connected with an industrial enterprise in Detroit in which Mr. Newberry was a stockholder. In the Newberry organization he had the rank of General Chairman, Mr. King taking the title Chairman of the Executive Committee (*id.* pp. 117-123, 661-666).

The details of the work of this Committee were perhaps no different than those of any other political committee unless it be in their perfection and elaboration. An effort was made to have in each county in the State of Michigan (there were eighty-eight of them) a chairman and secretary of a local county organization. This effort was substantially successful. A publicity department was established, with headquarters in Detroit, placed in charge of three experienced newspaper men assisted by a number of clerks through whom a most elaborate and extensive campaign through the Michigan press was inaugurated. There was paid out for publicity, by way of newspaper ad-

vertising, $147,860.16, the exact details of which, with the name and the publication interested, were set forth in the report subsequently filed as provided by the Michigan law. The Publicity Department let contracts for advertising, wrote advertisements, supervised their insertion, kept track of the publications and rendered the usual services attendant upon such work. Mr. King, as executive chairman, generally examined the advertisements before they were inserted, but the deails of this work were handled almost entirely by this department (*id.*, pp. 667-673; 683; 686; 253-280).

For the purpose of maintaining the activity of the county organizations and keeping in touch with sentiment throughout the State, there were various so-called field agents who were paid salaries of about fifty dollars per week, whose business it was to go around the State, usually in a designated territory, and report back to headquarters the progress of the campaign. The correspondence conducted by the headquarters with the county chairmen was most voluminous.

The men connected with the organization all had their attention called to the provisions of the Michigan Primary Election Law and the restrictions therein contained, and Mr. King enjoined upon them a strict observance in every way of the law. Every one connected with the campaign apparently was advised that the Committee would pay all legitimate expenses connected with the campaign and were likewise advised that funds were being provided for that purpose by the friends of Commander Newberry, as he was then described (*i.*, pp. 681, 682).

In addition to these activities men were employed to interest various groups in the Newberry

candidacy. For example, there was one group known as the "Fraternals"; another group known as the "Railroad group". Specific work was ordered and directed along these lines. The office established an elaborate 'follow-up' system of correspondence and it was the practice to prepare at the Detroit office hundreds of form letters to be sent to New York, there signed, as prepared, by Commander Newberry and sent out. A typical sample of such letter is as follows (*id.* p. 240):

> "It is very good of you, indeed, to sign the petition for me for United States Senator and I wish to express my great appreciation.
>
> "I will be unable, on account of my work here in the Third Naval District, to come home to thank you personally, as I would very much like to do, and so am writing you. I shall always try to merit your confidence in me.
>
> "Again thanking you, I remain, with best wishes,
>
> "Sincerely yours,
>
> TRUMAN H. NEWBERRY."

If a so-called "field agent" in his report to Headquarters mentioned the name of a man who was supporting this candidacy, a form letter was immediately prepared and sent, with others in groups of hundreds, to New York to be sent out over the signature of Commander Newberry. The same was done in many cases with the signers of the petitions for his nomination. In fact, an effort was made to have these appear to be personal letters to any one with whom the Committee could get in touch.

Mr. King, himself, took various trips throughout the State in an effort personally to visit every county. He wrote every night a story of

his trip, the original letter going to New York to Commander Newberry, and a copy going to office headquarters where clerks would take the names of the men mentioned in these reports and send out to them various form letters. While on this tour around the State he met the leading Republican politicians of the community.

As an incident of the headquarters there was organized a Speakers' Bureau (*id.*, p. 674). In this branch of the work young lawyers were engaged in and around Detroit for a modest compensation to attend various political meetings and make speeches in the interest of Commander Newberry's candidacy (*id.*, pp. 341, 343, 546). The staff at headquarters, including clerks, ran sometimes as many as thirty persons and there was a period when they had a night shift to keep up with the voluminous correspondence which was such a feature of this campaign.

Originally, the office staff was paid by voucher check but, as it appeared that sometimes the staff would not get their checks until after banking hours, this method was abandoned and they were paid in currency (*id.*, pp. 76-83). The stenographers, typists and filing clerks received from $18 to $40 a week. Some of the county chairmen and secretaries received remittances by mail in the form of a check and some would get cash for their expenses when at headquarters. The custom was very general throughout the State to employ men to circulate petitions and distribute in their communities literature prepared by the Publicity Department.

It was necessary under the Michigan State law that petitions signed by 7,209 voters be filed with the Secretary of State before the name of a candidate for United States Senator could go before the

Republican Primary. A great many more signatures than this were obtained by the Newberry organization but, as men were requested to circulate these petitions and obtain these signatures, they were informed they would be reimbursed for their time and expenses and this was done. The same is true of men employed to distribute literature.

A campaign committee in Michigan is required by state law to file immediately after primary election a detailed statement of receipts and disbursements. The Primary Election in this year was held on the 27th of August, 1918. On the 6th day of September there was filed what has come to be known as the "Blair Report." The important items are as follows (*id.* pp. 252-280):

Total receipts $178,856
(and the report shows by name, date and amount the source of every dollar).

Total disbursements $176,568.08
(the report shows these items by name and amount. The disbursements are accounted for under the following sub-headings):

"For advertising and other publicity	$147,860.16
"Office expenses, including rent, furniture, light and clerk hire..	9,070.13
"Telephone, telegraph and other charges	1,514.14
"Traveling expenses.....	9,104.52
"Copying of election registers and canvassing the voters.....	4,875.38
"Salaries and compensation not otherwise charged.....	4,143.75
"Total	$176,568.08"

After the primary campaign was over, the work incident to the election was taken over by the regularly constituted Republican State Central

Committee. Some of the staff of the Newberry Committee were employed by the State Central Committee, but the election part of this campaign was handled by the regular party committee.

Paul H. King kept Mr. Newberry fairly well advised as to the progress of the campaign. This was done largely by an exchange of letters which appear in the record, but likewise, on many occasions, he and others interested went to New York and there reported to or conferred with Mr. Newberry. In general Mr. Newberry from time to time was advised of the progress of the campaign but, with very limited exceptions, he knew nothing whatever concerning the details.

The defense sought to show that the defendants all acted in entire good faith and made an honest effort to comply with all the provisions of the law. It should be noted that the Federal statute penalizes only a "willful" violation. The Court ruled:

> "The question of the good faith of the candidacy of Senator Newberry is not in issue in this case" (*id.* p. 642).
>
> "So far as the first count is concerned, it would matter not whether Mr. King was mistaken in his construction of the law or not" (*id.* p. 928).

As already stated it was under the first count that this conviction was had.

The campaign produced one decidedly novel feature. There is nothing in the Michigan Primary law to prevent a Democrat from voting at the Republican Primaries or *vice versa*. Mr. Ford was a candidate for nomination at both the Republican Primary and the Democratic Primary. There is nothing in the Michigan Primary law to prevent this. As he was unopposed at the Democratic pri-

mary there was, of course, a possibility that the Democratic organization would go into the Republican Primary and make an effort to have him nominated there so there would be no Republican candidate whose name could go on the Republican ballot. As a part of the political strategy of the campaign it was thought desirable by those in charge of these details to get some Democrat to run against Mr. Ford at the Democratic primary for the Democratic nomination. The result was the candidacy of James W. Helme, which was fostered and financed by the Newberry organization. Their representatives circulated his petitions and paid for their printing and circulation. He thus became a candidate and his candidacy compelled the Democratic organization to stay within their own ranks in order to prevent his nomination.

A brief statement of the connection of each individual respondent with this case.

I—Truman H. Newberry:

He was the candidate, urged to become such through friends in Michigan; was not in Michigan throughout the campaign; was informed verbally and by mail of the general progress of the campaign; did not contribute one dollar for, nor have an acting, guiding or directing hand in, the effort a Committee of his friends was making in Michigan.

II—John S. Newberry:

It will not be disputed that he is the Senator's brother, although this record does not so state. It appears from one witness that he was in the Naval service away from Detroit during the greater part of this campaign. Aside from the fact that his

name appears in the certified copy of the so-called Blair report as having been a contributor to the campaign fund, he is mentioned by only three witnesses and in no instance as taking a part in the campaign (*id.* pp. 173, 311, 670). It is difficult to understand the theory upon which his case was allowed to go to the jury. Nowhere does it appear that he ever wrote a letter or spoke to anyone concerning this candidacy.

III—Paul H. King:

The general statement of facts gives his connection with the campaign. He was the executive head of the organization.

IV—Allan A. Templeton:

Mr. Templeton was General Chairman of the Business Men's Committee, in charge of the campaign. He produced some of the first money which went into the campaign. He talked with a few people and with one or two exceptions appears to have had little, if anything, to do with the details of the campaign after the organization was once perfected. It seems that former Representative Lindquist and Mr. Templeton had been friends since boyhood. He had been elected to Congress by an ingenious use of the mails. He referred to the episode when talking with Mr. Templeton. As a result of this talk he afterwards came to headquarters and it was arranged he should use his elaborate mailing lists to send out a letter favoring the so-called "Pure Merchandise Bill," to which general proposition the friends of Senator Newberry committed him. Mr. Lindquist charged five cents a letter for preparing, addressing and mailing. He presented his bill for $4,557 and received a check accordingly (*id.* pp. 306-311).

V—B. F. Emery:

Mr. Emery was active with Mr. King in renting headquarters and was one of the first men connected with the campaign. He was originally employed at $200 a month, afterwards was paid $300 a month. He helped get together the office force and appears to have acted largely as office cashier (*id.* pp. 665, 666).

VI—Harry O. Turner:

Mr. Turner was paid the same amount as Mr. Emery and apparently was an assistant to him in and about the office work (*id.* pp. 668, 669).

VII—E. V. Chilson:

Mr. Chilson was in charge of the Publicity Bureau. He employed and directed the speakers. He apparently occasionally did some work in the field, but primarily this was his duty. No arrangement was ever made for the compensation of Mr. Chilson (*id.* p. 674).

VIII—Hannibal A. Hopkins:

Mr. Hopkins was one of the three men in charge of the Publicity Department. He had been a newspaper man for years; was the editor of the St. Clair Republican, and in touch with newspaper men throughout the State of Michigan. He was employed to be Director of Publicity at $500 a month (*id.* pp. 666, 667).

IX—James F. McGregor:

Mr. McGregor was an assistant secretary or field agent in principal charge of the counties in the Upper Peninsula of Michigan. His duties have already been described. He received a total salary of $866.25 during the entire campaign (*id.* pp. 680, 681, 280).

X—Charles A. Floyd:

Mr. Floyd was a warm personal friend of Paul H. King and through him became connected with the campaign. No arrangement was made for any compensation for him. He was for a short time in the Detroit headquarters, but afterwards went to Grand Rapids and took charge of the campaign in Western Michigan with headquarters in Grand Rapids (*id.* pp. 673, 674).

XI—Roger M. Andrews:

Mr. Andrews is a newspaper publisher in Menominee, Mich. He appears on this record to have been chairman of the county organization in Menominee County. There is very little in the record showing any of his work or any of his activities (*id.* pp. 193, 701).

XII—Frederick Cody:

Mr. Cody has a brother and mother living in Detroit, but for some time he has been living in New York. He appears to have been quite active in the early stages of the campaign before the Business Men's Committee was thoroughly organized. It was through him that Commander Newberry had his interview with Jay G. Hayden in an effort to enlist his interest. He was in Detroit frequently, but does not appear to have contributed or disbursed any of the Committee's funds. It does not appear that he had official connection with the organization (*id.* pp. 58-68, 74).

XIII—Milton Oakman:

Mr. Oakman was County Clerk of Wayne County during this campaign and was also a candidate to succeed himself for this office. He was in charge of Wayne County, and put Mr. Clago

in charge of the Wayne County office. He told his clerks and several friends that he was interested in and was supporting the Newberry candidacy. He paid for an advertisement in the Abend Post. He appears to have engaged one or two workers. His name is mentioned by two witnesses in a rather sensational manner, to which reference will be made hereafter (*id.*, pp. 441, 451, 456, 771).

XIV—Richard H. Fletcher:

Mr. Fletcher was Labor Commissioner of the State of Michigan. He attended several Newberry meetings and interviewed many people in an effort to interest them in the Newberry candidacy. He disbursed fifty dollars for the circularization of petitions, and appears to have been an active supporter of Commander Newberry (*id*, p. 251). One of the few controverted questions of fact in this case, in so far as it may be deemed material, arises through an effort of the Government to establish that he caused names to be forged to the petitions nominating Helme for Senator. His name is also linked with some rather sensational testimony to which reference will be hereafter made (*id.*, pp. 578, 908):

XV—Fred Henry:

Mr. Henry was a resident of Flint, Michigan, a subordinate of Mr. Fletcher's in the Michigan Labor Department and Chairman of the Genessee County Organization. He disbursed in more or less small amounts considerable money in engaging factory workers and similar men to circulate petitions and distribute literature (*id.*, pp. 245, 453, 480).

XVI—William Mickel:

Mr. Mickel was a disgruntled Democrat. He was dissatisfied because the Democrats had proposed to nominate Henry Ford on the Democratic ticket. He was requested to interest James Helme in becoming a candidate on the Democratic ticket against Ford. He was paid $20 a month by the Committee, with an office in Grand Rapids, to promote the Helme candidacy. Altogether he received approximately $400 from the Newberry committee for this purpose (*id.*, p. 624). He was also active in organizing the so-called "Bolo Clubs," these clubs being intended to promote the political fortunes of Spanish-American war veterans. Mickel participated in this movement in Michigan in the interest of Commander Newberry (*id.*, p. 297).

XVII—George S. Ladd:

Mr. Ladd lives in Sturbridge, Mass. He was prominent in Grange matters. He had delivered some talks in Michigan some time prior to the Newberry campaign on the subject of good roads and had become well acquainted with former Senator Horatio S. Earle, known in Michigan as "Good Roads Earle." During the Newberry campaign Senator Earle sent for Ladd to come to Michigan. He endeavored to get Mr. Ladd interested in making speeches on behalf of the candidacy of Senator Newberry. Mr. Ladd at that time had never met or heard of anyone connected with the Newberry campaign. He was introduced to Mr. King and Mr. Chilson, was placed under the direction of the Speakers' Bureau and made a few speeches. He was given $100 in currency when he started on his first trip and when his work was over he was given a check for $350. He

went out and made speeches wherever he was sent (*id.*, pp. 657, 658).

It is not necessary to review the testimony at length or to stop to present in this statement tales of witnesses, not only improbable but remote from the issue, which were apparently introduced for the purpose of prejudicing the jury. This conviction, as we have already said, was not obtained because of the use of money for any corrupt or illegitimate purpose, and there was no evidence justifying the conviction of Senator Newberry or any one else upon any such ground. And a consideration of the only statute which is involved in this case will show that its terms were not violated either by Senator Newberry or by the defendants who supported his candidacy.

Specification of Errors.

The Assignments of Error which are relied upon are numerous. (Transcript, pp. 992-1008). We assume that it will be sufficient to state briefly their purport:

(1) Those which relate to the lack of constitutional authority to enact the statute upon which the prosecution is based.

Assignments 1 to 16, inclusive, and 118 to 153, inclusive.

(2) Those which relate to the construction of the statute involved.

Assignment 105, being refusal to charge the defendants' 7th request, as follows:

> "You are instructed that the act of Congress heretofore set out and which it is

claimed the respondents unlawfully and feloniously conspired to violate is an act which directly and exclusively relates to the contribution of money by the candidate himself, or the causing of contributions of money by the candidate himself. Congress has not assumed to take jurisdiction of or legislate upon the question as to how much money may be expended and used in a campaign for the nomination and election of a senator if and when such money so used and expended is voluntarily contributed by others than the candidate himself" (*id.*, pp. 984, 954).

Assignment 106, being refusal to charge defendants' 8th request, as follows:

"If you should find from the evidence that there was no conspiracy between two or more of the respondents, having for its object the violation of the act of Congress in question that Truman H. Newberry should give, use, expend or promise a sum of money larger than is permitted by the laws of Michigan or the acts of Congress, you may next consider whether you are satisfied beyond a reasonable doubt, from the evidence in the case, that two or more of these respondents unlawfully and feloniously conspired, combined, confederated and agreed together that Truman H. Newberry should cause to be given, contributed, used, expended or promised more money than he as a candidate for senator was permitted by the laws of Michigan or the acts of Congress to cause to be contributed, given, used, promised or expended, and in considering that question and in prosecuting that inquiry, you must, in testing out whether there was a conspiracy that Truman H. Newberry should cause to be contributed, given, used, expended or promised, money in excess of the amount permitted by the laws of Michigan and the act of Congress,

determine from the evidence in the case, First, whether there was such a conspiracy, confederation or agreement; Second, whether it had for its specific object the causing to be contributed, given, promised or used through and by Truman H. Newberry of money in excess of the amount allowed by law; and you are instructed that in considering the question as to whether Truman H. Newberry did cause to be contributed, given, used and expended or promised money in excess of the amount permitted by the laws of Michigan or the acts of Congress, that he must have been the direct and procuring cause for the contribution, expenditure, use, promise and giving of such money; that it is not enough that his mere candidacy may have resulted in the voluntary contribution to the support of that candidacy by others; it is not enough that those closely associated with him in family or business life should have been impelled by reasons of friendship or relationship to have voluntarily contributed to the expense of his candidacy; but it is absolutely necessary, in reaching any conclusion as to whether Truman H. Newberry caused to be given, contributed, used or expended any money to defray the expense of his campaign, that you should find that he directly procured contributions to be made for the purpose of defraying those expenses, and in no event are you to consider the question as to whether Truman H. Newberry did cause money to be contributed, given, expended, used or promised, except for the purpose of determining whether prior to that time he and one or more of the respondents had unlawfully and feloniously conspired, combined, confederated and agreed that such causing of contributions and expenditures of money should be done and that this was the specific object of their conspiracy" (*id.*, pp. 984, 954).

Assignment 107, being refusal to charge defendants' 9th request, as follows:

> "I instruct you that to warrant a conviction of these respondents, or any of them, the Government must have established by evidence beyond a reasonable doubt each and every essential element and ingredient of the crime charged. In other words, to warrant a conviction the Government must have so established First, that the respondents, or two or more of them, entered into the alleged unlawful conspiracy and agreement; Second, that the object or purpose of such conspiracy was that Truman H. Newberry should give, contribute, expend, use or promise, or cause to be given, contributed, expended, used and promised in the aggregate a sum of money to procure his nomination and election to the United States Senate in excess of the amount permitted by the laws of Michigan or the acts of Congress; Third, that after the conspiracy was formed and entered into, one or more of the defendants committed an act or acts to effect the object of the conspiracy; and in that connection I charge you that the evidence must be such as to exclude every single reasonable hypothesis except that of the guilt of the respondents. In other words, all of the facts proved must be consistent with and point to the guilt of the respondents, and must be inconsistent with their innocence, and it matters not how clearly the circumstances might point to guilt, still if they are reasonable and explainable on a theory which excludes guilt, then it cannot be said that the facts in the case are sufficient to satisfy the jury beyond a reasonable doubt of the guilt of the respondents, and in that event your verdict should be 'Not Guilty' (*id.*, pp. 985, 954).

Assignment 108, being refusal to charge defendants' 15th request, as follows:

> "You are instructed that if you find from the evidence that the respondent Truman H. Newberry, in the early part of 1918, either of his own accord or because of the solicitation of his friends, became a candidate for the nomination for United States Senator in the State of Michigan and that at or about that time his business associates, coterie of friends and intimates voluntarily organized a committee whose officers were duly appointed or chosen, which committee had for its object the encouragement and development of the candidacy of the said Truman H. Newberry for United States Senator, and if you find from the evidence that thereafter the friends and relatives of said Truman H. Newberry voluntarily and in good faith contributed money to said committee by paying it to its treasurer, and if you find from the evidence that said money so contributed was thereafter used, employed and expended by said committee and its officers in furthering the candidacy of the said Truman H. Newberry for the nomination for United States Senator, and if you further find from the evidence that the said Truman H. Newberry did not give, contribute, expend, use or promise any money in aid and support of his candidacy in excess of the amount permitted by the laws of Michigan and the acts of Congress, and if you further find that the said Truman H. Newberry did not actively and directly procure to be given, contributed, used, expended or promised any money to said committee or its treasurer in excess of the amount permitted by the laws of Michigan or the acts of Congress, and if you further find that there was no unlawful and felonious conspiracy, combination, confederation or agreement by and between two or more of the respondents that Truman H.

> Newberry should contribute, give, use, expend or promise, or actively and directly procure to be contributed, given, used, expended or promised, then and in that event your verdict must be 'Not Guilty' as to all of the respondents, even though you should find that the Committee which conducted his campaign, or certain of its representatives and agents, expended money contrary to the provisions of the laws of Michigan, and even though you should find that a large and unusual amount of money was contributed to the political committee and its treasurer, and even though you should find that it was wrongfully and wastefully expended in the campaign" (*id.*, pp. 987, 954).

Assignment 109, in which error is assigned on the charge to the jury as follows:

> "The words 'Give, contribute, expend or use' as employed in this statute have their usual and ordinary significance and mean furnish, pay out, disburse, employ, or make use of. The term 'To cause to be expended, or used' as it is employed in this Statute means to occasion, to effect, to bring about, to produce the expenditure and use of money" (*id.*, pp. 940, 954).

Assignment 111, in which error is assigned on the charge to the jury as follows:

> "The phrase which constitutes the prohibition against the candidate 'Causing to be given, contributed, expended or used excessive sums of money,' is not limited and not confined to expenditures and use of money made directly and personally by himself. This prohibition extends to the expenditure and use of excessive sums of money in which the candidate actively participates, or assists, or advises, or directs, or induces, or procures.

> The prohibition extends not only to the expenditure and use of excessive sums of money by the candidate directly and personally, but to such use and expenditure through his agency, or procurement or assistance (*id.*, pp. 940, 954).

Assignment 112, in which error is assigned on the charge to the jury as follows:

> "To constitute a violation of this Statute, knowledge of the expenditure and use of excessive sums of money on the part of the candidate is not sufficient; neither is it sufficient to constitute a violation of this Statute that the candidate merely acquiesces in such expenditures and use. But it is sufficient to constitute a violation of this Statute if the candidate actively participates in doing the things which occasion such expenditures and use of money and so actively participates with knowledge that the money is being expended and used" (*id.*, pp. 940, 941, 954).

Assignment 113, in which error is assigned on the charge to the jury as follows:

> "To apply these rules to this case: If you are satisfied from the evidence that the defendant, Truman H. Newberry at or about the time that he became a candidate for United States Senator was informed and knew that his campaign for the nomination and election would require the expenditure and use of more money than is permitted by law and with such knowledge became a candidate, and thereafter by advice, by conduct, by his acts, by his direction, by his counsel, or by his procurement he actively participated and took part in the expenditure and use of an excessive sum of money, of an unlawful sum of money, you will be warranted in finding that he did violate this Statute known as the Corrupt Practices Act" (*id.*, pp. 941, 954).

(3) Those Assignments of Error which relate to the point that the violation of the statute must be "willful."

In the rulings and charge of the trial court this essential element (willfulness) is omitted. This error is covered by Assignments of Error 33, 36, 37, 84, 103 and 110.

Assignment of Error 110 relates to the charge to the jury as follows:

> "The prohibition contained in this Statute against the expenditure and use of money by the candidate is not limited or confined to the expenditure and use of his own money. The prohibition is directed against the use and expenditure of excessive sums of money by the candidate from whatever source or from whomsoever those moneys may be derived" (*id.* pp. 940, 954).

It is likewise covered by Assignment of Error 114, which refers to the charge of the court to the jury as follows:

> "* * * A criminal intent is one of the essential elements of an unlawful conspiracy. There must be an evil design and a wrongful purpose. A conspiracy cannot exist without a guilty intent being then present in the minds of the conspirators. But this does not mean that the parties must know that they are violating the Statutes of the United States. In order to warrant a verdict of guilty the Government is not required to prove that the parties knew that some Statute forbade the acts they were performing. Every person is presumed to know the law, and also to intend the natural and ordinary results and consequences of his acts and conduct" (*id.*, pp. 943, 954).

Also by Assignment of Error 115, which refers to the charge of the court to the jury as follows:

> "* * * An unlawful or wrongful intent may be implied from the intentional doing of an unlawful act. Wrongful acts, knowingly or intentionally committed, cannot be justified on the ground of innocent intent" (*id.*, pp. 943, 954).

Also by Assignment of Error 116, which refers to the charge of the court to the jury as follows:

> "* * * To establish a conspiracy to violate a law or to commit an offense, it is only necessary to show an agreement to do the acts which constitute such violation or offense. The only question for you to pass upon is whether the defendants violated the law; not whether they had any knowledge that they were violating the law" (*id.*, pp. 943, 954).

(4) Those Assignments of Error which relate to the method adopted by the District Court for obtaining a jury in this case. The challenge to the array should have been sustained. Assignments of Error 21 to 28, inclusive.

Three hundred and fifty additional jurors were directed by the Court to be called for this trial. As an incident to this situation the Clerk of the Court sent to the Clerks of the different counties within the district the following letter (*id.* pp. 975, 976, 979, 981).

> "Grand Rapids, Mich., Dec. 22, 1919.
>
> "Dear Sir:
>
> Judge Sessions is very desirous of procuring lists of jurors who are representative men of the community from which they come and at the same time persons legally competent to perform jury duty. Those exempt from jury

duty in this court are the same as are exempt by the state law and are enumerated in the annexed circular. From your position in your community you are well qualified to give us the desired kind of men and we feel sure that you will do so. The law does not provide any compensation for this service but very properly considers it the duty of good citizens to see that good men are provided as jurors to try the rights of citizens in our courts.

Yours truly,

CHAS. J. POTTER,
Clerk."

After the return of the names thus obtained the jury commissioners without change or alteration, placed these names in the box from which the Marshal drew the last two hundred names of the special jurors. Prior to this time the court, on its own motion, caused to be endorsed upon the summons to all jurors the following:

"It is ordered that every person summoned to attend this court as a Traverse Juror shall from the time he receives notice of having been drawn as a juror, refrain from discussing with any one any cause or the facts of merits of any cause then pending in this court and no juror so drawn shall permit any other person to discuss with him or in his presence any such cause or any matter or thing pertaining thereto; and it shall be the duty of each juror to report at once to this court any attempt of any person to discuss such matters with him or in his presence.

"The Marshal shall cause this order to be printed upon all notices sent to traverse jurors."

After the jurors had been summoned the court, on its own motion, without the consent or knowledge of any of the defendants or their attorneys,

sent to each juror a questionaire, which appears in the record at page 976 *et seq.* This unique document speaks for itself. Among other questions asked all the jurors, inquiry was made as to whether they were in the service of the United States, State of Michigan or of any county or municipality. They were asked as to whether or not they were related to any respondent; as to whether or not they were close to or intimate with any respondent; as to whether or not they were associated in business with any respondent; as to whether or not they had been candidates for any office whatever in 1918; as to whether or not they were active in the political campaign of 1918. In the absence of all respondents and their counsel and apparently because of the examination of the answers to the questionaire, of the first one hundred fifty names drawn the court on his own motion excused one hundred two; of the second two hundred names drawn, in like manner the court on his own motion excused one hundred eighteen—a total of two hundred twenty out of the three hundred fifty drawn. Respondents and their counsel were only permitted to participate in the examination of the qualifications of the remaining one hundred thirty, about one-third of the total number.

The facts giving rise to the challenge to the array are all undisputed matters of record.

(5) Those Assignments of Error which relate to the refusal to grant defendants' request for a list of the Government's witnesses.

Assignments of Error 17 to 20, inclusive.

(6) Those which relate to the refusal of the Court to direct a verdict for the defendants.

Assignments 64 to 80, inclusive, and 85 to 102, inclusive.

(7) Those which relate to errors committed by the Court in its rulings upon the admissibility of evidence.

(a) It was error to admit what the witness Osborn stated to sundry respondents during the primary campaign.

Assignments of Error 43 to 50, inclusive (*id.*, pp. 222, 225).

(b) It was error to refuse to admit the correspondence of Commander Newberry to Mr. George E. Miller, the Managing Editor of the Detroit Evening News, which correspondence shows an absence of evil intent and a desire to do right (*id.*, pp. 643-656).

Assignment of Error 84.

(c) It was error to admit correspondence between Claude Hamilton and Senator Newberry, had more than one year after the primary election, concerning the so-called "Gold Star Club" (*id.*, pp. 184-186).

Assignment of Error 61.

(d) It was error to admit in evidence the so-called Blair report.

Under the Michigan Primary law the treasurer of a campaign committee is required to file with the County Clerk in the county of his domicile a detailed statement of receipts and disbursements. The Blair report appears to have been filed with the county clerk pursuant to this provision of law. It can have no probative force as against any one but Mr. Blair (*id.*, p. 252).

Assignment of Error 62.

(1) The testimony given as to statements made by various defendants before the Grand Jury was erroneously admitted (*id.*, p. 624).

Assignments of Error 58 and 59.

(f) It was error to refuse to permit counsel on cross examination to show the bias of a witness (*id.*, pp. 330, 331).

Assignments of Error 55 and 56.

(g) It was error to receive and leave in evidence testimony of various witnesses to the effect that they had not signed or authorized their names to be signed to the nominating petition of the respondent, James W. Helme, when it was not shown that the defendants or any of them had anything to do with this situation (*id.*, pp. 239-243).

Assignments of Error 51 to 54 inclusive.

POINTS.

We present the following points:

1. The Federal statute in question is without constitutional authority.

(a) The only constitutional provision which can be invoked to support the statute is Article I, Section 4, authorizing Congress to make regulations with respect to the "Times, Places and Manner of holding Elections for Senators and Representatives."

(b) The statute in question does not relate to the "times, places and manner of holding elections" within the meaning of the Constitution. The constitutional provision has no application to proceedings for the nomination of candidates.

2. The District Court erred in its construction of the statute.

(a) The statute in question does not attempt to limit the expenditure of amounts voluntarily contributed by supporters of a candidate. It deals with the amounts contributed or expended by the candidate himself or caused to be contributed or expended by him in the sense that they are in truth his contributions or expenditures and not amounts voluntarily contributed by those who desire to support him.

(b) It is not enough to constitute a violation of the statute that an amount is expended in excess of the stated limit. By the terms of the statute there must be a "willful" violation.

3. The District Court erred in refusing to direct a verdict for the defendants.

(a) Because the statute was invalid;

(b) Because the statute was inapplicable;

(c) Because there was no proof of willful violation on the part of any of the defendants;

(d) Because there was no proof that either Senator Newberry or any of his co-defendants had conspired to violate the statute.

4. The District Court erred in the summoning of jurors; in denying to the defendants lists of the Government's witnesses; and in its rulings upon questions of evidence.

ARGUMENT.

FIRST: The statutory provision in question is without constitutional authority.

(a) Article I, Section 4, of the Federal Constitution provides:

> "1. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

It is not disputed that this is the only provision of the Constitution which can be invoked in the attempt to find authority for the legislation upon which this prosecution is based. In *United States v. Gradwell*, 243 U. S. 476, 481, 482, this Court said:

> "The power of Congress to deal with the election of Senators and Representatives is derived from §4, Article I of the Constitution of the United States, providing that
>
> " 'The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislation thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators' ".

The power thus conferred upon Congress is a limited power. It is confined to regulations of "the *times, places* and *manner* of holding elec-

tions". The qualifications of electors, and of those who might be elected, are defined in other provisions. It is apparent that while Congress should have the power, which is essential to the preservation of the Government itself, to regulate the times, places and manner of holding elections, it was not intended otherwise to detract from the freedom of the people of the States with respect to their political activities. The conditions with respect to suffrage in the several States, at the time of the adoption of the Constitution, are stated in *Minor* v. *Happersett*, 21 Wall. 162, 172. Each State had determined for itself who should have the right to vote, and it is most significant that in creating the new government, with its Senate and House of Representatives, it was provided, with respect to the choice of members of the House, that "the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature" (Art. I, Sec. 2) and with respect to the Senators that they should be "chosen by the Legislature" of each State (Art. I, Sec. 3). And when the Seventeenth Amendment was adopted, providing for the popular election of Senators, a provision was made with respect to the qualifications of electors similar to that which obtains in the case of electors of the members of the House of Representatives.

With these provisions as to qualifications of electors, the measure of control given to Congress was the control of "the times, places and manner of holding elections" with the exception as to "the places of choosing Senators". As to the Senate, the extent of the power is to regulate the "*time*" and "*manner*". This was carefully explained by

Alexander Hamilton in The Federalist, in meeting the serious criticism which the proposed provision had evoked. He said:

> "As to the Senate, it is impossible that any regulation of 'time and manner', *which is all that is proposed to be submitted to the national government in respect to that body*, can affect the spirit which will direct the choice of its members." (Italics ours) (The Federalist, No. LX).

And again Mr. Hamilton said, in answering an objection with respect to the regulation of places for the election of members of the House of Representatives that these might be confined to particular districts so as to promote the interests of classes:

> "The truth is, that there is no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect or be elected. But this forms no part of the power to be conferred upon the national government. Its authority would be expressly restricted to the regulation of the *times*, the *places*, the *manner* of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution, and are unalterable by the legislature."

See, also:

> Luther Martin's "Genuine Information", in Farrand's Records of Federal Convention, Vol. 3, pp. 194, 195;
>
> Rufus King in Massachusetts Convention, Farrand's Records, Vol. 3, p. 267;

James Madison in Virginia Convention, Farrand's Records, Vol. 3, pp. 311, 319;
William R. Davie in North Carolina Convention, Farrand's Records, Vol. 3, pp. 344, 345;
Roger Sherman in House of Representatives, Farrand's Records, Vol. 3, p. 359.

(b) The sole question then is whether the statute is a regulation of the "manner of holding elections."

The "*election*" is the choice of the Senator or Member of the House of Representatives, and the "*holding*" of the election is the taking of the vote to determine the choice. The regulation of the "*manner*" of holding elections is manifestly the regulation of the way in which the vote to determine the choice shall be taken and registered.

As Congress has the power to regulate the taking of the vote, Congress has the power to protect the qualified voters in exercising their right to vote at the time when the vote is taken. Congress also has the power to supervise the taking of the vote in order to make sure that the vote is duly taken, and Congress may also prescribe how the vote shall be counted and the result registered. In this power to regulate there would be involved the power to protect the voter in the casting of his vote, to protect the evidence of the vote, to insure freedom from any improper tampering with the vote or with the counting of the vote or with the registration of its result.

Congress is thus authorized to surround the election, that is, the taking of the vote, with appropriate safeguards and with such adequate supervision as will insure to the voter the free ex-

ercise of his right and establish the choice as shown by a vote properly taken and counted.

This, as we understand it, is the substance of the decisions of this Court in construing the provision.

Ex Parte Siebold, 100 U. S. 371, 396.
Ex Parte Yarbrough, 110 U. S. 651.
United States v. *Mosley*, 238 U. S. 383.

Thus in *Ex Parte Siebold*, the Court said:

> "The counsel for the petitioners concede that Congress may, if it sees fit, assume the entire control and regulation of the election of representatives. This would necessarily involve the appointment of the places for holding the polls, the times of voting, and the officers for holding the election; it would require the regulation of the duties to be performed, the custody of the ballots, the mode of ascertaining the result, and every other matter relating to the subject. Is it possible that Congress could not, in that case, provide for keeping the peace at such elections, and for arresting and punishing those guilty of breaking it? If it could not, its power would be but a shadow and a name. But, if Congress can do this, where is the difference in principle in its making provision for securing the preservation of the peace, so as to give to every citizen his free right to vote without molestation or injury, when it assumes only to supervise the regulations made by the State, and not to supersede them entirely? In our judgment, there is no difference; and, if the power exists in the one case, it exists in the other."

However broadly the power has been conceived, it has never been held to go beyond adequate protection of the exercise of the right to vote and a

fair count. This of course embraces the keeping of the peace at the polls, the appointment of the necessary officers for the purposes stated and the punishment of those who offend the duly pre-prescribed regulations or may conspire to prevent the votes being duly taken and counted.

Thus, in *ex parte Yarbrough*, 110 U. S. p. 661, the Court said:

> "Will it be denied that it is in the power of that body (Congress) to provide laws for the proper conduct of those elections? To provide, if necessary, the officers who shall conduct them and make return of the result? And especially to provide, in an election held under its own authority for security of life and limb to the voter while in the exercise of this function? Can it be doubted that Congress can by law protect the act of voting, the place where it is done, and the man who votes, from personal violence or intimidation and the election itself from corruption and fraud?"

The same fundamental principle of construction was recognized in the statment of Mr. Justice Miller in delivering the opinion of this Court in *In Re Coy*, 127 U. S. 731, 752, where it is said:

> "* * * the power, under the Constitution of the United States, of Congress to make such provisions as are necessary to secure the fair and honest conduct of an election at which a member of Congress is elected, as well as the preservation, proper return, and counting of the votes cast thereat, and, in fact, whatever is necessary to an honest and fair certification of such election, cannot be questioned."

The history of the action of Congress under the authority conferred by Article I, Section 4, is most instructive. This history was reviewed by this Court in the opinion of Mr. Justice Clarke in the case of *United States* v. *Gradwell*, 243 U. S. 476, 482-484, as follows:

> "Although Congress has had this power of regulating the conduct of congressional elections from the organization of the Government, our legislative history upon the subject shows that, except for about twenty-four of the one hundred and twenty-eight years since the Government was organized, it has been its policy to leave such regulations almost entirely to the States, whose representatives Congressmen are. For more than 50 years no congressional action whatever was taken on the subject until 1842 when a law was enacted requiring that Representatives be elected by Districts (5 Stat. 491), thus doing away with the practice which had prevailed in some States of electing on a single state ticket all of the Members of Congress to which the State was entitled.
>
> "Then followed twenty-four years more before further action was taken on the subject when Congress provided for the time and mode of electing United States Senators (14 Stat. 243) and it was not until four years later, in 1870, that, for the first time, a comprehensive system for dealing with congressional elections was enacted. This system was comprised in §§19, 20, 21 and 22 of the Act approved May 31, 1870, 16 Stat. 144; in §§ 5 and 6 of the Act approved July 14, 1870, 16 Stat. 254; and in the Act amending and supplementing these acts, approved June 10, 1872, 17 Stat. 347, 348, 349.
>
> "These laws provided extensive regulations for the conduct of congressional elections. They made unlawful, false registration, brib-

ery, voting without legal right, making false returns of votes cast, interfering in any manner with officers of election and the neglect by any such officer of any duty required of him by state or federal law; they provided for appointment by Circuit Judges of the United States of persons to attend at places of registration and at elections, with authority to challenge any person proposing to register or vote unlawfully, to witness the counting of votes and to identify by their signatures the registration of voters and election tally sheets; and they made it lawful for the marshals of the United States to appoint special deputies to preserve order at such elections, with authority to arrest for any breach of the peace committed in their view.

"These laws were carried into the revision of the United States Statutes of 1873-4, under the title 'Crimes against the Elective Franchise and Civil Rights of Citizens,' Rev. Stats., §§ 5506 to 5532, inclusive.

"It will be seen from this statement of the important features of these enactments that Congress by them committed to federal officers a very full participation in the process of the election of Congressmen, from the registration of voters to the final certifying of the results, and that the control thus established over such elections was comprehensive and complete. It is a matter of general as of legal history that Congress, after twenty-four years of experience, returned to its former attitude toward such elections and repealed all of these laws with the exception of a few sections not relevant here. Act approved February 8, 1894, 28 Stat. 36. This repealing act left in effect as apparently relating to the elective franchise, only the provisions contained in the eight sections of Chapter 3 of the Criminal Code, §§ 19 to 26, inclusive, which have not been added to or substantially modified during the twenty-three years which have since elapsed."

A distinction is at once apparent between the regulation of the manner of holding elections, in order to protect the right of the voter in casting his vote and to secure a fair count of the vote, and the attempt to interfere with or control the activities of the people of the States in the conduct of political campaigns. In other words, if we assume the validity of regulations which protect each qualified voter in the exercise of his right to vote and which provide for the supervision of the casting of the vote and the proper ascertainment of the result of the vote, then the question is whether Congress can go further and attempt to control the educational campaign. Upon what ground can it be said that Congress can provide how many meetings shall be held, where meetings shall be held, how many speakers shall be allowed to speak for a candidate, how many circulars may be distributed, how many committees may act in behalf of a candidate, how they shall be organized and what shall be the limit of their honest activity?

To hold that Congress may regulate such modes of popular expression, or may thus impose its will upon the extent of the political activity of the people of the States, is to ignore the fundamental limitation of the power of Congress. No one can read Hamilton's articles in the "Federalist" with respect to this power and believe for a moment that there would have been any chance of ratifying the Constitution had it been proposed to delegate such a power.

The power conferred was to regulate the times, places and manner of holding elections, not to regulate the conduct of campaigns.

It will be observed that in the exercise of the power conferred, prior to the legislation now

under consideration, Congress always dealt with the "*election*" and the conduct of the "election" and never attempted to deal with the nominating process.

Of course, if it could be said that it was not the intention of Congress by the legislation in question to regulate the "election," but to impose a restriction upon the candidate as an individual, there could not be even a pretense that the Act was valid. Yet it will be noted that Mr. Rucker of Missouri, when asked by a member of the House how he would justify the control of primary elections and conventions by Congress, said:

> "Mr. Speaker: I will answer that question very briefly, in this way: *We can not control, and I have never attempted and never will attempt to control, a convention or primary election by Federal legislation. The trouble is, some gentleman insists on placing a construction upon this law which is wholly unwarranted and unjustified. This bill gives no Federal control over conventions, primary elections or even over general elections. Who can find in the legislation here proposed one word which authorizes directly or by implication Federal interference with any State election? There is no provision in the bill which can be tortured into such authorization.* No citizen can be proceeded against under this bill unless he violates its provisions, and if a candidate for a Federal office violates a Federal law, why should he not be proceeded against in the Federal court" (italics ours). (Cong. Rec. Vol. 47, p. 4101.)

These remarks may properly be mentioned, as Mr. Rucker was the member in charge of the bill, member of the Conference Committee and author of the bill. But, as we have said, if the aim is simply to proceed against a candidate and not to

regulate an "election," no argument could be suggested for its constitutionality.

The question, then, is whether proceedings for nomination of candidates are embraced within the term "elections" as used in Article I, Section 4.

The Constitution gives to Congress no power to regulate the process of nomination.

This question also came up in *United States* v. *Gradwell, supra,* but it was not necessary to decide it. The Court said (pp. 487-489):

> "The constitutional warrant under which regulations relating to congressional elections may be provided by Congress is in terms applicable to the 'times, places and manner of holding elections (not nominating primaries) for Senators and Representatives.' Primary elections, such as it is claimed the defendants corrupted, were not only unknown when the Constitution was adopted but they were equally unknown for many years after the law, now §19, was first enacted. They are a development of comparatively recent years, designed to take the place of the nominating caucus or convention, as these existed before the change, and even yet the new system must be considered in an experimental stage of development, under a variety of State laws.
>
> "The claim that such a nominating primary, as distinguished from a final election, is included within the provision of the Constitution of the United States applicable to the election of Senators and Representatives is by no means indisputable. Many state supreme courts have held that similar provisions of state constitutions relating to elections do not include a nominating primary. *Ledgerwood* v. *Pitts,* 122 Tennessee, 570; *Montgomery* v. *Chelf,* 118 Kentucky, 766; *State ex rel. Von*

Stade v. *Taylor*, 220 Missouri, 619; *State* v. *Nichols*, 50 Washington, 508; *Gray* v. *Seitz*, 162 Indiana, 1; *State* v. *Erickson*, 119 Minnesota, 152.

"But even if it be admitted that in general a primary should be treated as an election within the meaning of the Constitution, which we need not and do not decide, such admission would not be of value in determining the case before us, because of some strikingly unusual features of the West Virginia law under which the primary was held out of which this prosecution grows. By its terms this law provided that only candidates for Congress belonging to a political party which polled three per cent. of the vote of the entire State at the last preceding general election could be voted for at this primary, and thereby, it is said at the bar, only Democratic and Republican candidates could be and were voted for, while candidates of the Prohibition and Socialist parties were excluded, as were also independent voters who declined to make oath that they were 'regular and qualified members and voters' of one of the greater parties. Even more notable is the provision of the law that after the nominating primary, candidates, even persons who have failed at the primary, may be nominated by certificate signed by not less than five per cent. of the entire vote polled at the last preceding election. Acts West Virginia, 1915, c. 26, pp. 222, 246.

"Such provisions as these, adapted though they may be to the selection of party candidates for office, obviously could not be lawfully applied to a final election at which officers are chosen, and it cannot reasonably be said that rights which candidates for the nomination for Senator of the United States may have in such a primary under such a law are derived from the Constitution and laws of the United States. They are derived wholly from the state law and nothing of the kind can be found in any federal statute.

Even when Congress assumed, as we have seen, to provide an elaborate system of supervision over congressional elections no action was taken looking to the regulation of nominating caucuses or conventions, which were the nominating agencies in use at the time such laws were enacted.

"What power Congress would have to make regulations for nominating primaries or to alter such regulations when made by a State we need not inquire. It is sufficient to say that as yet it has shown no disposition to assume control of such primaries or to participate in them in any way, and that it is not for the courts, in the absence of such legislation, to attempt to supply it by stretching old statutes to new uses, to which they are not adapted and for which they were not intended. In this case, as in the others, we conclude that the section of the Criminal Code relied upon, originally enacted for the protection of the civil rights of the then lately enfranchised negro, cannot be extended so as to make it an agency for enforcing a state primary law, such as this one of West Virginia.

"The claim that the Federal Corrupt Practices Act (June 25, 1910, c. 392, 36 Stat. 822, amended August 19, 1911, c. 33, 37 Stat. 25, and August 23, 1912, c. 349, 37 Stat. 360), recognizing primary elections and limiting the expenditures of candidates for Senator in connection with them is, in effect, an adoption by Congress of all state primary laws is too unsubstantial for discussion; and the like claim that the temporary measure (Act of June 4, 1914, 38 Stat. 384), enacted by Congress for the conduct of the nomination and election of Senators until other provision should be made by state legislation cannot be entertained, because this act was superseded by the West Virginia primary election law, passed February 20th, 1914, effective ninety days after its passage."

The question again arose in *United States* v. *Blair*, 250 U. S. 273, where the Court said (pp. 278-279):

> "It is maintained further that, because of the invalidity of these statutes, neither the United States District Court nor the Federal Grand Jury has jurisdiction to inquire into primary elections or to indict or try any person for an offense based upon the statutes, and therefore the order committing appellants is null and void.
>
> "The same constitutional question was stirred in *United States v. Gradwell*, 243 U. S. 476, 487, but its determination was unnecessary for the decision of the case, and for this reason it was left undetermined, as the opinion states. Considerations of propriety, as well as long-established practice, demand that we refrain from passing upon the constitutionality of an Act of Congress unless obliged to do so in the proper performance of our judicial function, when the question is raised by a party whose interests entitle him to raise it.
>
> "We do not think the present parties are so entitled, since a brief consideration of the relation of a witness to the proceeding in which he is called will suffice to show that he is not interested to challenge the jurisdiction of court or grand jury over the subject-matter that is under inquiry."

With respect to the process of nomination and the validity of the statute as applied to the present case there are two considerations of controlling importance, both of which are clearly indicated in the historical review in the opinion in the *Gradwell* case.

(1) The so-called "*nominating primary*" was not known at the time of the adoption of the Con-

stitution. It is a development, as the Court said, "of comparatively recent years". Broadly speaking, it may be said to be a development of a period about one hundred years after the adoption of the Constitution and is still in an "experimental stage".

(2) The nominating primary, like the nominating convention and its predecessor the caucus, is not the "*election*". The nominating process is distinct from the "election" and it was so regarded at the time the Constitution was adopted. Electors are free to go to the polls and cast their votes for anyone they please, and the election would be complete without any "nominations".

The decisive question presented is—What did the framers of the Constitution mean by "*elections*", as that term was used in Article I, Section 4? What the term "*elections*" meant then it means now.

If there could ever have been any doubt as to that proposition it is now removed by the decision of this Court in *Hawke* v. *Smith, No. 1*), 253 U. S. 221. In that case the Court had under consideration the meaning of the expression "*Legislatures*" of the several States, as used in Article V of the Constitution with respect to the ratification of amendments.

There has grown up in recent years the practice of initiating legislation by popular vote or by enacting laws subject to a referendum. It was therefore urged that the word "Legislatures" in Article V referred to the possession of legislative power, and, as legislative power was possessed and exercised by the people, it was contended that the State had authority to provide for the ratifica-

tion of amendments to the Federal Constitution by popular vote and that this should be regarded as a ratification by the "Legislature" of the State within the meaning of the constitutional provision. Here were considerations of new policy and of modern methods and of a state of public opinion, by reason of which it was attempted to import into Article V of the Constitution a new conception of the term there used. This Court held the argument to be utterly unsound. What the word "Legislatures" meant when the Constitution was adopted it means now.

This Court said:

> "The only question really for determination is: What did the framers of the Constitution mean in requiring ratification by '*Legislatures*'? That was not a term of uncertain meaning when incorporated into the Constitution. What it meant when adopted it still means for the purpose of interpretation. A Legislature was then the representative body which made the laws of the people. The term is often used in the Constitution with this evident meaning. * * *
>
> "There can be no question that the framers of the Constitution clearly understood and carefully used the terms in which that instrument referred to the action of the legislatures of the States" (*Hawke* v. *Smith*, 253 U. S. 221, 227, 228).

This ruling, of course, is not at all at variance with the familiar decisions that when a constitutional provision embodies a certain concept, whatever is properly within the concept is embraced within the words of the Constitution, although it lay far beyond the vision of the framers of the Constitution. Thus the power to regulate interstate and foreign commerce has a content which

the fathers could not foresee. The changes in our methods of communication, the development of instrumentalities undreamed of when the Constitution was adopted, which have called for novel applications of the power, have in no way extended the power itself. As was said in *In re Debs*, 158 U. S. 564, 591: "The Constitution has not changed. The power is the same. But it operates today upon modes of interstate commerce unknown to the fathers, and it will operate with equal force upon any new modes of such commerce which the future may develop."

If that which is the subject of the attempted regulation is in fact interstate commerce, or foreign commerce, it is none the less within the power conferred upon Congress because the framers did not foresee the conditions to which it would be applied. But, on the other hand, that which is *not* interstate or foreign commerce cannot be brought within the power of regulation merely because of the existence of opinion that it would be advisable that Congress should exercise the power (*Hammer* v. *Dagenhart*, 247 U. S. 251).

The power exercised must be found within the definition of the power conferred. And when the Constitution uses a term of definite meaning at the time when the Constitution was adopted, no supposed public policy can justify legislation outside the authority thus limited.

The discussion, then, in the present case falls within limitations similar to those which were recognized in *Hawke* v. *Smith*, *supra*, and the question is simply—What was the meaning of the term "*elections*" as used in Article I, Section 4, at the time the Constitution was adopted.

The scope of the power is defined by that term. Whatever that term meant then, it means now,—

no more,—no less. It cannot be stretched beyond its meaning any more than the word "Legislatures" could be extended by reason of new practice and the asserted policy of the referendum.

Now this crucial question, with respect to the meaning of the word "elections" as used in the Constitution, presents no difficulty whatever. No one would have the hardihood to suggest that within the meaning of the framers of the Constitution the word "elections" had reference to anything else than the taking of the vote for Senators or Representatives.

At the time of the adoption of the Constitution, the nomination process was a very simple one. No one could have confused it with an "election". Nominations were early made at the caucus, which was either an informal gathering of the voters of a particular district or a "legislative" or "Congressional" caucus. It was not regulated by law and no one regarded it as an "election". Later, in the interest of better representation, the caucus gave way to the nominating convention to which delegates were chosen. But no one supposed that the nominating convention was an "election". It is only recently that nominating conventions have been subject to legal regulation in the States. Of course the introduction of the so-called primary system was simply another phase of the nominating process. The primary was no more an "*election*" within the meaning of the Constitution than the nominating convention was an "election" or the caucus was an "election" within the meaning of the Constitution. It is a mere accidental circumstance that because of the method adopted in the primary there has come into use the expression "primary election". The pres-

ent use of this term has nothing to do with the meaning of "elections" as used in Article I, Section 4, of the Constitution. "Primary elections," so-called, as has been said, stand upon no different footing with respect to the meaning of this clause of the Constitution than did the nominating convention.

In short, Congress had no more power to regulate nominating primaries or "primary elections" than it would have had or has now, in States where the convention method is adopted to regulate conventions. The question remains, whatever the method be, that of caucus, nominating convention or "primary", whether a few cast their votes to determine the nomination or the entire electorate is consulted, whether the term "election" as used in Article I, Section 4, embraces the process of nominating candidates.

It is further important in determining the scope of the regulation that was in contemplation when the power to regulate was delegated to Congress by the Constitution, to consider what sort of regulation there was in the States and what was the subject of the regulation which the framers of the Constitution had in mind. There were, of course, election laws, that is, governing the "election". It was the taking of the vote that was the subject of the regulation and the only regulation known was that which pertained to the taking of the vote. In providing that Congress might substitute its regulation for that of the States with reference to the "election" the framers of the Constitution had reference to a very distinct subject of regulation, to-wit, the "election" itself. There had been no attempt to regulate by law the nominating process. There was nothing at the time of the adoption of the Constitution, or

for approximately a hundred years after, which savored of an attempt to regulate the political activities of citizens so far as these related to nominations.

It follows then that the Constitution used a term with a well defined meaning. There is nothing in the knowledge, spirit or conditions of the times which suggests any purpose to widen that term so to embrace that which according to its natural significance it did not embrace. It is inconceivable that had there been any intention to delegate power to regulate the process of nominations that the framers of the Constitution would have been content to provide for the regulation of the "times, places and manner of holding elections."

We think there is far more to be said for the proposition that the word "Legislatures" in Article V referred to those who legislated whether a representative body or the people themselves than to say that the word "*elections*" in Article I, Section 4, embraces the nominating process.

Even under State constitutions the term "elections" does not embrace so-called "primary elections" when the term refers to the election of public officers. This is for the obvious reason that the term "elections", when referring to the election of public officers, does not even now, when our primary systems are well known, embrace primaries which select candidates and do not elect officers. So that not only is it impossible to conceive of the term "elections" as used in the Federal Constitution as embracing nominating primaries, but if even at the present time there were introduced into the Federal Constitution the term "elections", as referring to the election of Senators or Representatives, it would not

property include nominating primaries or so-called "primary elections".

Thus, in *State ex rel Nordin* v. *Erickson*, 119 Minn. 152, 156, in passing upon the constitutionality of a primary law the Court said:

> "In considering this question we must keep in mind that our primary election, which is purely of statutory origin, is the selection, by qualified voters, of candidates for the respective offices to be filled, while an election, which has its original in the Constitution, is the selection, by such voters, of officers to discharge the duties of the respective offices".

The Supreme Court of Missouri, in referring to the use of the word "election" in the Constitution of that State, said:

> "That the framers of the Constitution referred to the election of individuals to public office and not to mere nomination to office when they inserted Section 3 of Article 8 in the Constitution, we have no doubt whatever. As said by the St. Louis Court of Appeals in *Dooley* v. *Jackson*, 104 Mo. App. 1. c. 30, 'The word 'election' frequently occurs in the Constitution of the State. First in Section 9, Article 2, and Article 8 of that instrument is wholly devoted to the subject of elections. But wherever used in the Constitution, it is used in the sense of choosing a person or persons for office by vote, and nowhere in the sense of nominating a candidate for office by a political party'" (*The State ex rel Von Stade* v. *Taylor*, 220 Mo. 618, 631).

In *State ex rel Zent* v. *Nichols*, 50 Wash. 508, 522, it was said:

> "It is contended that this section adds a requirement to the qualifications of electors in addition to the constitutional require-

ments, and for that reason renders the entire act void. Were the primary election so far such an essential part of the general election as to make the constitutional provision relating to the qualification of electors entitled to vote at the general election applicable thereto, then there would be force in this objection; but we do not think the sections of the Constitution providing the qualifications of electors applicable to the primary election provided for by this statute. It is not the purpose of the primary election law to elect officers. The purpose is to select candidates for office to be voted for at the general election. Being so, the qualifications of electors provided by the Constitution for the general election can have no application thereto."

In *Ledgerwood* v. *Pitts*, 122 Tenn. 570, in passing upon the constitutionality of the primary election law of Tennessee, the Supreme Court of that State said (p. 587):

"The first inquiry, therefore, presented for our examination is whether or not these provisions of the Constitution have any application at all to primary elections. Admittedly no such thing could have been in contemplation by the framers of the constitution when they came to formulate the election and suffrage clauses of that instrument, for at that time no such thing as a primary election had ever been suggested. The object of this modern invention of political parties is primarily for the purpose of permitting and requiring the entire electorate of that party to participate in the nomination of candidates for political office. The plan is simply a substitution for the caucus or convention. It is true, as stated, it is a part of the political machinery that starts the candidate on his way and the political party is

> thereby enabled to crystallize and concentrate its vote on that particular candidate who is chosen as the representative and expositor possibly of their political views; but the limitations and safeguards of the constitution apply exclusively to the final election when the officer is chosen in the mode required by the constitution."

In *State* v. *Woodruff*, 68 New Jersey Law, 89, 94, the Court said:

> "But the election at which the fraud is committed, to constitute the common law offense, must be a popular election, the fraud going to the destruction of the right of the elective franchise in the selection of public officers for public positions. Such a thing as a primary was not known at the common law. It is the outgrowth of modern convenience or necessity. A primary is not an election in the sense of the common law; it is merely a method for the selection of persons to be balloted for at such an election."

In construing the Act of 1839 in relation to the laying of wagers on the event of "any election", the Supreme Court of Pennsylvania said:

> "Instead of an election by all the electors of a municipality for public officers, it (the primary election) is an election by the members of a party for its candidates. These candidates may afterwards be voted for by some of the electors when all electors are entitled to vote. Men may be candidates who were not voted for, or who were defeated, at the primary election. An election by a party for its candidates widely differs in its object from an election by the electors for officers. Such primary election is as plainly without the purview of the Act of 1839 as is

the election of officers for a private corporation."

Commonwealth v. *Wells*, 110 Pa. 463, 468.

In *People* v. *Cavanaugh*, 112 Cal. 674, 676, 677, in construing the "Purity of Elections Act", the Court said:

> "The word 'election', as here used in subdivision 3, and the other subdivisions of section 19, does not refer to primary elections. The purity of elections law is entitled: 'An act to promote the purity of elections by regulating the conduct thereof, and to support the privilege of free suffrage by prohibiting certain acts and practices in relation thereto, and providing for the punishment thereof'. In the body of this act may be found the word 'election' a hundred times or more, and it may be said in every instance that it is plainly apparent that the word is not used as applying to primary elections."

See, also,

State v. *Simmons*, 117 Ark. 159.
George v. *State*, 18 Ga. App. 753.
Riter v. *Douglass*, 32 Nev. 400, 433.
Gray v. *Seitz*, 162 Ind. 1.
Kelsow v. *Cook*, 184 Ind. 173.
Montgomery v. *Chelf*, 118 Ky. 766.
Hodge v. *Bryan*, 149 Ky. 110.
Hager v. *Robinson*, 154 Ky. 489.
Wilson v. *Dean*, 177 Ky. 97.
Lew v. *Montgomery*, 31 N. D. 1.
State v. *Michel*, 121 La. 374.
Babbitt v. *State*, 174 Pac. (Wyoming) 188.

There is some conflict in the State cases with respect to the question whether the term "any

election" can be deemed to include what has been called a "primary election". But, where the term "election" is held to include a so-called primary election, it is plainly because of the manner in which the latter expression has been used in the terminology of the State legislation. And the weight of authority is that even where the State statute has used the expression "primary election", a reference merely to an "election" is not sufficient to bring primary elections within the provision.

But when the State constitution or statute refers to an "election" in the sense of *an election of public officers*, it is not construed to include a so-called primary election, which is not an election of public officers but merely a selection of candidates.

And, referring to some of the State cases, the District Court in *United States* v. *O'Toole*, 236 Fed. 993, 996 (heard with *United States* v. *Gradwell*, 243 U. S. 476 and affirmed), said:

> "We think it may be said both on reason and authority that, where the word 'election' is used without qualification, the reference is to a general election, as distinguished from a primary election. State *v.* Johnson, 87 Minn. 221, 91 N. W. 604, 840; Montgomery *v.* Chelf, 118 Ky. 766, 82 S. W. 388; Gray *v.* Seitz, 162 Ind. 1, 69 N. E. 456. Certainly it cannot be contended that the choosing or election by the qualified electors provided for by Section 2 of Article 1 of the Constitution of the United States includes the selection of party candidates by primary election, for at that time such elections were unknown. We can find no provision of the Constitution of the United States or of an act of Congress which either directly or by implication warrants the Court in holding that the protection

> of the federal government extends to the right of any citizen to participate in a party endorsement of a candidate through a primary election or otherwise. The right is created by party rules or state legislation, and the remedy, if there be one, must be derived from the same source."

In Article I, Section 4, of the Federal Constitution there can be no doubt that the term "elections" has exclusive reference to elections *for the office*, first, because no other sort of "election" was known at the time, and, second, because the provision is that Congress shall have power to regulate the "times, places and manner of holding elections for Senators and Representatives." In other words, the election described is the election *at which the public office is filled*. A nomination is not an election "*for*" Senator or Representative; it is merely the selection of a candidate.

We find in Article I, Section 6, subdivision 2, the provision that "No Senator or Representative shall, during the Time for which he was *elected*, be appointed to any civil Office under the Authority of the United States," etc. It is perfectly obvious that the word "*elected*" does not mean "nominated". And the Senator or Representative is elected at the "*election*" and not before.

The "elections" of Representatives to which Article I, Section 4 refers, and the manner of holding which may be regulated by Congress, are the "elections" at which the "electors," to whom reference is made in Article I, Section 2, vote. It is because they vote at the "elections" for members of the House of Representatives that they are called "electors". But the term "electors" like the term "elections" has no reference to a nominating primary. If Congress has the power to

regulate a nominating primary, it has also the power to regulate a nominating convention and the vote of delegates at a nominating convention. Manifestly, such a vote is not an "election" and the delegates are not "electors" within the meaning of the Constitution.

We venture to say that there is not a word in the Constitution, or in any contemporary document, which can be tortured into a support of the view that "*elections*" in Article I, Section 4, comprehends any nominating system.

Manifestly, the meaning of the word "elections" is not extended by the expression "*manner of holding*" elections, for the manner of holding the election is necessarily limited to the election which is held. There is no escape from the "election" itself in dealing with the manner in which it is conducted. That does not take us back of the election so as to embrace a nominating system, for the nominating process is not the "holding of elections" within the meaning of the Constitution. The "election" intended by the Constitution is the taking of the vote for Senator or Representative.

If Congress under Article I, Section 4, has the power which it has sought to exercise in the statute in question, it has the power to *abolish all primary elections* for Senators and Representatives in every State of the Union. It has the power to establish conventions, to overthrow conventions, to provide any sort of a primary that it may desire to provide. Such interferences with the rights and privileges of the citizens of the several States has no warrant in the Constitution. We have already adverted to the serious opposition which the proposed Constitution encountered by reason of the provision in Article I, Sec-

tion 4, which, limited as it was, was still resisted by many who were solicitous to maintain the freedom of the people of the States in their political activities. The argument that the power to regulate the *times, places* and *manner* of holding elections was essential to the preservation of the national government was unanswerable and carried the day. But it was a victorious argument only because of the limited nature of the power. It was because it was a limited power that Hamilton was able successfully to defend it. The notion that Congress could supervise the methods that should be employed to enlist support of a candidacy would have been most obnoxious to the public sentiment of the time. It was because the people were jealous of their freedom from Federal control of their political activities that the provision was carefully limited and Hamilton was able to say, "Its authority would be expressly restricted to the regulation of the *times*, the *places*, the *manner* of elections" (The Federalist, No. LX). The effort in this case, under the pressure of a sentiment which takes no account of constitutional limitations, is to stretch the word "*elections*" to take it beyond both its normal meaning and its unquestioned significance as it was used in the Constitution. This attempt has not the slightest warrant in constitutional law.

SECOND: The District Court erred in its construction of the statute.

Even were the statute a valid one, it affords no justification for the conviction in this case. We may again quote the provision:

> "No candidate for Representative in Congress or for Senator of the United States shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election, any sum, in the aggregate, in excess of the amount which he may lawfully give, contribute, expend, or promise under the laws of the State in which he resides: *Provided*, That no candidate for Representative in Congress shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding five thousand dollars in any campaign for his nomination and election; and no candidate for Senator of the United States shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding ten thousand dollars in any campaign for his nomination and election" (37 Stat. 28).

And the provision of the Michigan law embraced in the reference is as follows:

> "No sums of money shall be paid, and no expenses authorized or incurred by or on behalf of any candidate to be paid by him in order to secure or aid in securing his nomination to any public office or position in this State, in excess of twenty-five per cent of one year's compensation or salary of the office for which he is candidate. * * *" (Public Acts, 1913, No. 109, p. 189).

The construction which the District Court placed upon the statute is found in the following extracts from the charge to the jury (Transcript, pp. 940, 941). The context of these instructions is shown in the quotations already given (*ante*, pp. 9-10).

> "The term 'To cause to be expended, or used' as it is employed in this Statute, means

to occasion, to effect, to bring about, to produce the expenditure and use of money * * * * * * * * * * * * * * * This prohibition extends to the expenditure and use of excessive sums of money in which the candidate actively participates, or assists, or advises, or directs, or induces, or procures. * * * * * * * * But it is sufficient to constitute a violation of this Statute if the candidate actively participates in doing the things which occasion such expenditures and use of money and so actively participates with knowledge that the money is being expended and used.

"To apply these rules to this case: If you are satisfied from the evidence that the defendant, Truman H. Newberry at or about the time that he became a candidate for United States Senator was informed and knew that his campaign for the nomination and election would require the expenditure and use of more money than is permitted by law and with such knowledge became a candidate, and thereafter by advice, by conduct, by his acts, by his direction, by his counsel, or by his procurement he actively participated and took part in the expenditure and use of an excessive sum of money, of an unlawful sum of money, you will be warranted in finding that he did violate this statute known as the Corrupt Practices Act." (Transcript, pp. 940, 941).

The Court had already charged (Transcript, pp. 939, 940) that "the annual salary of United States Senator is $7500" and that "therefore, the Statute of the State of Michigan and the Act of Congress limited the amount of money which a candidate for that office may lawfully expend or use in procuring his nomination to the sum of $1875.00, and in procuring his election after nomination to a

like sum, and in procuring both his nomination and election to the aggregate sum of $3750.00 exclusive of the amounts which he may use or expend for his personal expenses as provided in the last proviso of the Statute which has been read."

The Court thus construed the statute to mean that if Mr. Newberry knew that his campaign for nomination and election would require the expenditure of more than $3750 and thereafter "by advice, by conduct, by his acts, by his direction, by his counsel, or by his procurement he actively participated and took part in the expenditure and use of more than $3750", or 'participated in doing the things which occasioned such expenditures and so actively participated with knowledge that the money was being expended and used' the jury would be warranted in finding that he violated the statute.

And, further, that if from this point of view the jury were satisfied that the defendants other than Mr. Newberry did in fact "aid, assist, counsel, induce or procure" Mr. Newberry to violate the Act in this manner, the jury would be warranted in finding that they were also guilty of a violation of the Act (*id.* p. 941).

And, again, that if the jury found from the evidence that the defendants, or some of them, "entered into an agreement, plan or arrangement that there should be expended in procuring the nomination and election" of Mr. Newberry, "a sum of money in excess of the sum of $3750" and should "further find that it was a part of that plan, agreement or arrangement, definitely understood, that the defendant Truman H. Newberry should knowingly and intentionally and actively participate and take part in such expenditure and

use of money by his acts and conduct, or by his direction or advice or counsel," the jury would be warranted in finding "that a conspiracy did exist such as is charged in the first count of this indictment" (*id.*, p. 943).

It thus appears that the Court so construed the statute as to make it a violation of the statute for Mr. Newberry to become a candidate for United States Senator if he knew that his campaign for nomination and election would require more than $3750 to be expended and thereafter by his advice or by his conduct or by his counsel he actively took part in the expenditure of more than $3750, or in doing the things which occasioned such expenditure, although the amount expended was used entirely for legitimate purposes and although it was wholly and voluntarily contributed by his supporters and in no part by himself.

(a) That this construction of the statute was erroneous and highly prejudicial, as it stretched the statute beyond its clear intent, is apparent from the following considerations:

(1) *It was manifestly not the intention of Congress to fix a limit upon the total amount, raised by voluntary contributions, which could be expended in a campaign either for nomination or election.*

This is clear from the limit fixed in the *proviso* of the Federal statute, which is $5,000 in the case of a campaign for the nomination and election of a Representative, and $10,000 with respect to a campaign for the nomination and election of a Senator. Of course Congress had not the slightest notion that these amounts would be a proper limit of *all* contributions and expenditures that might be made in such campaigns, and hence Congress in its proviso expressly fixed these

amounts as those which the "candidate" might "give, contribute, expend, use or promise". The limit in the proviso of the Federal statute is obviously a limit of the amount which may be contributed, expended, or promised by the candidate himself and has no reference to the expenditures of monies voluntarily contributed by others.

The Federal statute, in the clause in question, refers to the standard of the State statute, but it refers solely to the standard fixed by the State statute with respect to what the candidate may himself "give, contribute, expend or promise under the laws of the State". The words are:

> "in excess of the amount which he (the candidate) may lawfully give, contribute, expend, or promise under the laws of the State in which he resides."

Plainly, there is here no intention, in invoking the standard of the State statute, to fix anything but the limit placed upon the candidate's own gifts and expenditures.

And the Michigan statute, to which in this case the reference applies, merely establishes with respect to the securing of the nomination the limit of the amount which the candidate himself may pay for that purpose, and the context shows that there is the same intent with respect to the limit for the amount which may be expended after the nomination and in connection with the campaign for election. But even if the Michigan statute, or any other State statute, went further, the reference in the *Federal* statute to the standard of the State statute is only to a limit which bears upon the candidate himself.

Thus, neither in the Federal statute nor in the State statute is there an attempt to limit the total amount which may be raised by voluntary contri-

butions and expended in the campaign. Further, neither the Federal statute nor the Michigan statute sought to limit the amount which any particular supporter might give, or to limit the contributions which might be made by friends or associates of the candidate, or the expenditures of the moneys thus contributed. It would have been preposterous to attempt to provide that a citizen should lose the right to make a contribution in aid of a political campaign or to support a candidate for Senator or Representative because he knew the candidate was his intimate friend or was his business associate. No such absurd effort was made.

(2) The statute then, which bears solely upon the candidate, must be construed in the light of the evident fact that the total expense of the campaign would normally exceed the limit fixed for the candidate and that voluntary contributions by the supporters of the candidate, by his friends and associates, were not unlawful and were not intended to be limited by the provision which bore upon what the candidate himself might do.

It must therefore be regarded as a cardinal principle of the construction of this statute, bearing upon the candidate, that it shall not infringe upon the freedom of citizens to support him by voluntary contributions and to have the moneys thus contributed legitimately expended in his behalf.

If a committee of citizens desire to support a candidate for Senator, there is certainly nothing either in the Federal statute or in the standard of the State statute which the Federal act invokes which in any way is intended to make it impossible for that committee to carry on the ordinary activities of a political campaign, to hire halls and

speakers, to issue circulars, distribute speeches, arrange for the organization of local clubs, provide places where voters may congregate and listen to discussions of the issues of the campaign, and for all these and any other legitimate purpose to raise money and to expend it.

Whatever the Federal statute may be taken to mean, it certainly does not mean that Congress, in providing that a limit, fixed by the State statute for the candidate's own expenditures, should not be exceeded, should impair or make impossible the legitimate activities of a political committee in support of the candidate where the funds of the committee are furnished exclusively by the voluntary contributions of the citizens who desire to support the candidacy. Only in this view can a sensible meaning be assigned to the statute. In short, the inhibition on the candidate was not intended to be an inhibition on the supporters of the candidate with respect to what they might lawfully raise and expend.

(3) The words requiring construction are

> "cause to be given, contributed, expended, used or promised."

The question is—"What does the word '*cause*' mean?"

We may again quote the entire clause:

> "No candidate for Representative in Congress or for Senator of the United States shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election, any sum, in the aggregate, in excess of the amount which he may lawfully give, contribute, expend, or promise under the laws of the State in which he resides: * * * ."

It is to be observed that the limit which governs this clause, as well as the prior clause, is the amount fixed by the State statute for the candidate's own expenditures.

This reference to the State statute shows the intent that no candidate should be liable under the Federal statute with respect to an excessive expenditure *unless he exceeded the amount which he could expend under the State statute*. The Federal statute had its own proviso and that was limited exclusively to what the candidate himself contributed or expended. The reference to the State statute is a reference to a State standard and it would be, as it seems to us, an extraordinary construction of the Federal statute to hold that it was the intent of Congress that a candidate should be guilty of a crime who had nevertheless complied with the Federal proviso so far as his limit of expenditure was concerned and had also fully complied with the statute of his State so far as any limit it imposed upon him was concerned.

In the present case, Mr. Newberry did not violate the law of Michigan. There was no law of Michigan which restricted the expenditures of the Newberry Committee. The statute of Michigan imposed a limit upon what Mr. Newberry himself might contribute or expend, and he contributed and expended nothing. The Michigan statute also expressly recognized the sort of objects which might be met by expenditures in the course of a campaign. They are set forth as follows (Michigan Public Acts, 1913, No. 169, Sec. 3):

> "First, For traveling expenses and personal expenses incident thereto, for printing, stationery, advertising, postage, expressage, freight, telegraph, telephone and public messenger services;
>
> "Second, For dissemination of printed information to the public;

"Third, For political meetings, demonstrations and conventions;

"Fourth, For the rent, maintenance and furnishing of offices;

"Fifth, For the payment of clerks, typewriters, stenographers, janitors, and messengers actually employed;

"Sixth, For the employment of challengers at primaries and elections, to the number allowed by law as such;

"Seventh, For the payment of public speakers and musicians at public meetings, and their necessary traveling expenses;

"Eighth, For copying and classifying of election registers or poll lists and investigating the right to vote of the persons listed or registered therein, and conducting proceedings to purge the registers and lists, and prevent improper or unlawful registration or voting;

"Ninth, For making canvasses of voters;

"Tenth, For conveying infirm or disabled voters to and from the polls;

"Eleventh, For employing as counsel, attorneys licensed to practice in accordance with the laws of the State, and for the necessary expenses of such counsel."

It was clearly proved that Mr. King, the Newberry Committee and those acting in the campaign for Mr. Newberry's nomination, were most solicitous to keep their expenses within the categories thus named. The Michigan statute did not fix any limit for the expenses which were made by the Newberry Committee from the funds raised by Mr. Newberry's supporters.

While the Federal statute in the clause "or cause to be given, contributed, expended, etc.," undoubtedly aimed at those contributions or expenses which were really made by the candidate, but under cover, we submit that the statute should not be construed with respect to the clause which

takes the State statute as the standard, so as to make it a crime for the candidate to do that which was perfectly lawful under the State act. As there is not the slightest question that Mr. Newberry and the other defendants are guiltless of any violation of the statute of Michigan to which the Federal Act refers, they should not be deemed guilty of violating the Federal statute itself.

(4) But aside from the consideration that there was no violation of the State statute, the words "*cause to be given, contributed, expended,*" etc., cannot be taken to refer to expenditures made by a committee *of moneys voluntarily contributed by supporters of the candidate.*

The word "cause" evidently refers to the candidate as the "*direct*" cause. It was not the intent of the statute to traverse the field of possible influence to see whether a happy speech, an engaging personality or a wise platform would win support and lead to contributions and expenditures.

Plainly, the statute aims to hit at what the candidate does or has done on his own account, not at what he influences, advises, induces or counsels as a candidate in the interest of the campaign, which may result in or occasion the expenditure of money contributed by others. There breathes through the pores of the statute the intent to cover indirection, attempts to disguise the candidate's gifts and expenditures, to strip off any mask that may be assumed and hold the candidate to the limit, as fixed with respect to what he actually gives or expends, whether he does it directly in his own name or in the name of another whom he uses for the purpose.

It is apparent that some basis of construction must be found which will at once accomplish the

purpose of confining the candidate within the assigned limit with respect to what he actually does himself or has done on his individual account, no matter what the disguise, and at the same time to make possible legitimate political activities and proper expenditures by those who voluntarily contribute and expend funds in support of the candidate in whom they believe.

There is no way of finding such a basis of sound construction if the word "*cause*" be interpreted as the District Judge interpreted it. The District Judge established as his first premise the fact that the campaign for the nomination and election would cost more than $3750 and that this was known to Mr. Newberry. There are certainly very few States in the country where a legitimate campaign for the nomination and election of a United States Senator, or for the nomination and election of a Representative in Congress, would not cost far more than the amount which the statute of the State permits to be expended by the candidate himself. The premise that the District Judge thus lays down may be regarded as one of universal application. Virtually every candidate for Representative or Senator, save under exceptional conditions, must know that the expense of the campaign will exceed the limit fixed for his personal outlays.

Next, from this point of view, the District Judge went on to assert that if the candidate, with this knowledge that the campaign would involve an expenditure of more than the amount limited for his personal outlay, actively participates "in doing the things which occasion such expenditures" he would be guilty of a crime. We again repeat what the District Judge said:

> "But it is sufficient to constitute a violation of this Statute if the candidate actively par-

> ticipates in doing the things which occasion such expenditures and use of money and so actively participates with knowledge that the money is being expended and used" (*Transcript*, pp. 940, 941).

We venture to say that this is not construction, but a perversion of the statute. What does the candidate do when he "*actively participates in doing the things which occasion such expenditures?*" The committee in his support is organized, moneys are voluntarily contributed and it is desired that the candidate shall speak throughout the State. But, if he speaks, he must speak in halls that have been hired, and the expenditure for these halls alone may exceed the limit assigned to him for his personal outlays. The committee may desire that his speeches shall be printed and sent through the State by mail. Mailing is an expensive matter. It costs a large sum to put one circular in the hands of every voter throughout the State. According to the view of the District Judge, if the candidate wrote a speech and gave it to his committee to circulate, knowing that the expense of the hall where he delivered the speech and the expense of mailing the speech to the voters of the State would exceed the amount limited for his personal outlays under the statute, he would be guilty of a crime.

Actively participating "*in doing the things* which occasion such expenditures" is nothing but a roundabout way of describing *campaigning*. The candidate cannot campaign without "doing the things" which occasion expenditures. Fixing a limit of $3,750 for personal expenditures of a candidate for United States Senator for both nomination and election may be well enough, but to treat this sum as a limit for all expenditures of moneys voluntarily contributed by others, when

the candidate does anything to occasion the outlay of the moneys, is simply to fix in effect the sum of $3,750 as the limit of the campaign expenses, so far as the candidate has anything to do with the campaign, and to make all connected with the campaign guilty of a crime if that limit is exceeded.

The District Judge went beyond this. He not only treated as a violation of the statute the active participation of the candidate "in doing the things which occasion such expenditures," but he said that the prohibition extended to the use of the excessive sums of money, that is, the use of moneys in excess of the limit fixed for the candidate's personal expenditures, in which the candidate "actively participates, or *assists*, or *advises*, or directs, or induces, or procures" (*id.* p. 940).

What sort of a political campaign is it in which a candidate gives no advice as to what should be done? It would apparently make no difference whether the committee of supporters is a regular party committee or a committee organized for the particular purpose. The consequence is the same, under the view of the District Judge, if the candidate participates or assists or advises with respect to the use of moneys in the campaign in excess of the limit fixed for his own personal outlays.

We have seen that it is perfectly proper in Michigan, and under the Federal Act, for a committee to organize and to secure a fund largely in excess of the limit of $3,750. How is the committee to expend it? According to the view of the District Judge, the committee may go ahead and expend the money for the various purposes described in the Michigan statute, and for other legitimate purposes, and there is no violation of the law. But if the committee asks the can-

didate what he thinks of hiring speakers, or of obtaining halls in particular places, or of sending out circulars or information, then if the expenditure in excess of $3,750 takes place in the carrying out of what the committee decides upon in the light of the candidate's advice, both the candidate and the members of the committee become guilty of a violation of the law and engage in a criminal conspiracy.

This was not a casual inadvertence of the District Judge; it was the main theory and purport of the charge; and it was in this way alone that a conviction was secured.

The District Judge applied his general proposition to Mr. Newberry's case and charged the jury that if Mr. Newberry knew that the campaign for his nomination and election would require the expenditure and use of more money than was permitted by law, that is, than was permitted by law for him personally to contribute and expend, and thereafter "by *advice*, by *conduct*, by his *acts*, by his *direction*, by his *counsel*, or by his *procurement* he actively participated and took part in the expenditure and use of an excessive sum of money" that is, of an amount in excess of the limit fixed for his personal outlays, the jury would be warranted in convicting him under the statute (*id.* p. 941). Here again the District Judge went beyond "direction" and brought in "*advice*", "*counsel*", "*conduct*", "*acts*"—anything which by advice or otherwise could be deemed in the broadest sense to make Mr. Newberry a participant in the expenditure by his supporters of an amount voluntarily contributed by others but greater than that which he could contribute and expend himself.

It is quite evident that such a construction of the statute ignores the cardinal principle of con-

struction to which we have already adverted, that is, that the statute was not intended to impair the legitimate activities of committees and supporters of the candidate or the expenditure of moneys voluntarily contributed by others in aid of the candidacy. The District Judge made the committee, which was organized in aid of the candidacy, although it was provided with funds not by Mr. Newberry or on his account, but by his friends and associates and supporters who were voluntary contributors, guilty of a crime in doing what otherwise would have been entirely lawful for them to do, merely because Mr. Newberry was found to "counsel" or "advise" or by conduct or by acts to take part in the campaign in which the money was expended.

If the word "*cause*" is interpreted in the light of this manifest purpose not to interfere with a campaign, provided that funds are supplied by voluntary contributions from others than the candidate and are expended for legitimate purposes, all difficulty disappears.

The statute relates to gifts and contributions, as well as to expenditures, but the candidate cannot be said to "*cause*" moneys to be given or contributed within the meaning of the statute, which is intended to fix a limit of the *candidate's* gifts or contributions, when moneys are voluntarily contributed by others. Such contributions made by others are not his gifts. If, however, he procures money to be given on his account, but in another's name, then it is his gift and the contribution is caused by him, because it is not a voluntary contribution of another, but one which the candidate himself is making in an indirect manner.

It was well-known by Congress that campaign contributions are generally raised by solicitation. They are none the less voluntary in the eye of the

law on that account; they do not become unlawful on that account; they do not become a part of the candidate's personal *quota* on that account. This statute has nothing to do, we submit, with the moneys which come from the supporters of the candidate, even though they are influenced to make the contribution by their intimate association with him, their complete confidence in him and their friendship for him.

There is no different rule for expenditures. When the moneys are lawfully raised by voluntary contributions, it is proper to expend them. They may be expended for the purposes summarized in the Michigan statute. How can it be said that the statute is violated with respect to lawful expenditures of such money lawfully raised because the candidate counsels or assists in "the doings" which lead to the expenditures?

We think it is plain that the word "*cause*" in the statute does not at all cover cases of the candidate's "*advice*", or "*assistance*" or "*counsel*" or even "*procurement*" where the moneys expended are moneys voluntarily contributed by others and both the contributions and expenditures are made by supporters who act voluntarily in his support as a candidate for public office.

The distinction with respect to "*causing*" is thus clearly indicated. Whatever agency is involved in the conception of "causing" is not the mere political activity of a political committee, as an association of persons voluntarily engaged in the promotion of a political candidacy. The relation of such a committee is not to the candidate as a principal in the sense of the law, but to him as a candidate whom it is desired to invest with the responsibilities of public office.

The construction placed upon the statute by the District Judge would make it impossible for any

candidate wholesomely to participate as a candidate in the activities of the campaign, if those activities, however legitimate, involved to his knowledge an expense of more than the amount limited for his personal outlay. He could not advise with respect to expenditures, he could not take part in the "doings" which involved the expenditures, he could have no relation to all the manifold transactions which form an essential part of the campaign. All that the statute was designed to hit was *indirection* on the part of the candidate and to cover contributions and expenditures made by him directly or indirectly, but not to ascribe to him either contributions or expenditures made by others on their own account in his support as a candidate.

If it be borne in mind that the Federal statute refers to a limit in the State statute which by its terms relates only to what the candidate himself may give or expend under the laws of the State and that there was no intention to interfere with voluntary contributions of others to limit their amount, or the total amount of expenditures in the campaign, aside from those of the candidate himself, it necessarily follows that the word "cause" must be so interpreted as to give room for this intended freedom and only to expose the candidate to liability when he is acting individually on his own account in making what is truly his own gift or expenditure.

If there ever was a case in which the familiar rule for the construction of penal statutes is applicable, it is this case. We suggest no strictness of construction that is at war with its reasonable application, but we do object to the torturing of a penal statute, as has been done in this case, in order to turn innocent acts into crimes.

All the contributions in the campaign for Mr. Newberry's nomination were voluntary contributions of his friends and supporters. There is no charge here against him or the other defendants of any expenditures for wrongful purposes. Mr. Newberry and the other defendants did not violate the statute of Michigan. Nor was there any violation by Mr. Newberry of the Federal *proviso* fixing the amount which he could expend for his candidacy, and yet by attributing to him as a "cause" the activities of a political committee in the interest of his candidacy which expended for legitimate purposes the moneys voluntarily contributed by others, this conviction for a criminal conspiracy has resulted.

We submit that the conviction should be denounced as a gross miscarriage of justice and an unwarrantable assault upon an honorable man who has been guilty of no wrong.

(b) *The District Court further erred in construing the statute as it held that the good faith of the defendants was immaterial.*

There was no violation of the Federal statute unless the offense was committed which the statute condemned. It was essential to the commission of this offense that the violation of the statute should be "*wilful.*"

The statutory provision in question was enacted by the amending Act of August 19, 1911 (37 Stat. 28), as a part of Section 8. Section 10 of the original Act of June 25, 1910 (36 Stat. 824) was made Section 11 by the amending Act of August 19, 1911 (*id.*). This section, which was thus incorporated in the original Act and retained

in the Act as amended, is as follows (36 Stat. 824):

> "Sec. 10 (11) That every person willfully violating any of the foregoing provisions of this Act shall, upon conviction, be fined not more than one thousand dollars or imprisoned not more than one year, or both."

This section qualifies the entire amended statute, including the provision of amended Section 8, which is in question, and hence *there is no offense under the statute in the absence of a wilful violation.*

The word "wilful" as used in the Act, under the applicable decisions, does not mean an intent to do the forbidden thing but a specific intent to violate the provisions of the statute.

The defect appears on the face of the indictment which fails to charge a wilful violation or to set forth any facts in support of such a charge.

The point was made in the District Court that if the defendants were honestly mistaken upon reasonable grounds in their construction of the Federal statute and did not intend to violate any law in the contributions and expenditures of the Newberry Senatorial Committee, there was no crime. The District Judge held otherwise. The District Court said:

> "The question of the good faith of the candidacy of Senator Newberry is not in issue in this case" (*id.* p. 642).

When defendant's counsel attempted to argue to the jury as to the intent of the defendants, the Court said:

> "So far as the first count is concerned it would matter not whether Mr. King was mistaken in his construction of the law or not.

Mr. Littleton: I take an exception to that.

The Court: The sole question is whether the things were done, intentionally done, which constitute an offense under the laws of the United States.

Mr. Littleton: I take an exception to that, * * *" (*id.* p. 928).

The District Court charged the jury:

> "In order to warrant a verdict of guilty, the Government is not required to prove that the parties knew that some statute forbade the acts they were performing. Every person is presumed to know the law, and also to intend the natural and ordinary results and consequences of his acts and conduct. An unlawful or wrongful intent may be implied from the intentional doing of an unlawful act. Wrongful acts, knowingly or intentionally committed, cannot be justified on the ground of innocent intent. To establish a conspiracy to violate a law or to commit an offense, it is only necessary to show an agreement to do the acts which constitute such violation or offense. The only question for you to pass upon is whether the defendants violated the law; not whether they had any knowledge that they were violating the law" (*id.* p. 943).

There is no question but that there are many statutes as to which no other intent is necessary than an intent to do the forbidden thing.

See

Ellis v. *United States*, 206 U. S. 246.

On the other hand, it is equally clear that many statutes require a specific intent or a specific condition of mind, in the absence of which the crime is not committed. Such a statute was involved in *Pettibone* v. *United States*, 148 U. S. 197. Plain-

tiffs in error were indicted under Sections 5399 and 5440 of the Revised Statutes of the United States (now Sections 135 and 37 of the Criminal Code). Section 5399 provided as follows:

> "Every person who corruptly, or by threats or force, endeavors to influence, intimidate, or impede any witness, or officer in any court of the United States, in the discharge of his duty, or corruptly, or by threats or force, obstructs or impedes, or endeavors to obstruct or impede, the due administration of justice therein, shall be punished by a fine of not more than five hundred dollars, or by imprisonment not more than three months, or both."

The indictment alleged in substance that the defendants conspired to commit an offense against the United States, to wit, to corrupt and by force and threats obstruct and impede the due administration of justice in the Circuit Court of the United States, in that while an injunction was still in full force and effect the defendants intimidated the employees of certain mining companies within the protection of the injunction. The indictment, however, failed to allege that defendants knew of the injunction and had a specific intent to accomplish its violation. The conviction of the defendants was reversed and the cause remanded with instructions to quash the indictment and discharge the defendants. The Court said (p. 207):

> "Undoubtedly it is a condition of penal laws that ignorance of them constitutes no defence to an indictment for their violation, but that rule has no application here. The obstruction of the due administration of justice in any court of the United States, cor-

> ruptly or by threats or force, is indeed made criminal, but such obstruction can only arise when justice is being administered. Unless that fact exists, the statutory offence cannot be committed; and while, with knowledge or notice of that fact, the intent to offend accompanies obstructive action, without such knowledge or notice the evil intent is lacking. It is enough if the thing is done which the statute forbids, provided the situation invokes the protection of the law, and the accused is chargeable with knowledge or notice of the situation; but not otherwise."

Whether a statute falls in one class or the other is a pure matter of statutory construction. Did the Legislature intend to make the *mens rea* an ingredient of the statutory offense? (See statement of Beasley, Chief Justice, in *Folwell* v. *State*, 49 N. J. L. 31, 33).

The word "wilful" as used in penal statutes has frequently been defined by this Court. In *Felton* v. *United States*, 96 U. S. 699, this court quoted with approval the definition of Chief Justice Shaw in *Commonwealth* v. *Kneeland*, 20 Pick. 220:

> "'The word 'wilfully", says Chief Justice Shaw, 'in the ordinary sense in which it is used in statutes, means not merely 'voluntarily', but with a bad purpose.' 20 Pick. (Mass.) 220. 'It is frequently understood', says Bishop, 'as signifying an evil intent without justifiable excuse.' Crim. Law, Vol. 1, Sect. 428".

In *Potter* v. *United States*, 155 U. S. 438, there was an indictment under Section 5208 of the Revised Statutes making it

> "unlawful for any officer, clerk, or agent of any national banking association to certify any cheque drawn upon the association unless the person or company drawing the cheque has on deposit with the association, at the time such cheque is certified, an amount of money equal to the amount specified in such cheque".

A subsequent statute made it a misdemeanor for any officer, clerk or agent of any national banking association to "wilfully violate the provisions" of this Act.

It appeared that the defendant Potter, as President of the Maverick National Bank, certified certain checks in behalf of the firm of Evans & Company at a time when the account of that Company was overdrawn in a large sum, between $100,000 and $200,000. The defendant offered to prove an oral agreement between Evans & Company and the Bank by which Evans & Company might have a loan by overdraft limited to $200,000, and that at the time of the certification of the checks Evans & Company had made deposits in the Bank. The Circuit Court excluded the evidence and this was held to be error upon the ground that although in fact the existence of the loan did not warrant the certification, nevertheless if the defendant in good faith supposed that the arrangement for a loan did warrant the certification the jury should have been informed of that fact as bearing upon the question whether he had "wilfully" violated the statute. The Court, by Mr. Justice Brewer, said (p. 445-446, 447-448):

> "The charge is of a wilful violation. That is the language of the statute. Section 5208, Revised Statutes, makes it unlawful for any officer of a national bank to certify a cheque

unless the drawer has on deposit at the time an equal amount of money. But this section carries with it no penalty against the wrong-doing officer. Section 13 of the act of 1882 imposes the penalty, and imposes it upon one 'who shall wilfully violate,' etc., as well as upon one 'who shall resort to any device,' etc., 'to evade the provisions of the act;' 'or who shall certify cheques before the amount thereof shall have been regularly entered to the credit of the dealer upon the books of the banking association.' The word 'wilful' is omitted from the description of offences in the latter part of this section. Its presence in the first cannot be regarded as mere surplusage; it means something. It implies on the part of the officer knowledge and a purpose to do wrong. Something more is required than an act of certification made in excess of the actual deposit, but in ignorance of that fact or without any purpose to evade or disobey the mandates of the law. The significance of the word 'wilful' in criminal statutes has been considered by this court. In *Felton* v. *United States*, (96 U. S. 699, 702) it was said:

" 'Doing or omitting to do a thing knowingly and wilfully, implies not only a knowledge of the thing, but a determination with a bad intent to do it or to omit doing it. 'The word 'wilfully,' says Chief Justice Shaw, 'in the ordinary sense in which it is used in statutes, means not merely 'voluntarily,' but with a bad purpose.' 20 Pick. (Mass.) 220. 'It is frequently understood,' says Bishop, 'as signifying an evil intent without justifiable excuse.' Crim. Law, vol. 1, §428.'

"And later, in the case of *Evans* v. *United States*, 153 U. S. 584, 594, there was this reference to the words 'wilfully misapplied':

" 'In fact, the gravamen of the offence consists in the evil design with which the misapplication is made, and a count which should

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omit the words 'wilfully,' etc., and 'with intent to defraud,' would be clearly bad.'

* * * * * *

"If the defendant in good faith supposed that this arrangement was the equivalent of a loan by note, and that the indebtedness of Evans & Co. was fully secured by collateral, it seems to us that the jury would have a right to be informed of the fact as bearing upon the question whether he had 'wilfully' violated the statute. It cannot be that the guilt or innocence of the defendant under this indictment turns upon the mere matter of bookkeeping. While it is true that care must be taken not to weaken the wholesome provisions of the statutes designed to protect depositors and stockholders against the wrongdoings of banking officials, it is of equal importance that they should not be so construed as to make transactions of such officials, carried on with the utmost honesty and in a sincere belief that no wrong was being done, criminal offences, and subjecting them to the severe punishments which may be imposed under those statutes. We must not be understood as holding that this testimony established an absolute defence, and that by the form of such an agreement the mandatory terms of section 5208 can be evaded, but only that evidence of a positive agreement upon the part of the officers of the bank that this overdraft account should be practically treated as a loan from day to day, to be and in fact secured by ample collateral—coupled with testimony that for the cheques certified each day there was deposited in advance an ample amount of cash—should have been submitted to the jury on the question of 'wilful' wrongdoing. As 'wilful' wrong is of the essence of the accusation, testimony bearing directly on the question of wilfulness is of vital importance, and error in rejecting it cannot be regarded otherwise than as material and manifestly prejudicial."

Again, in *Spurr* v. *United States*, 174 U. S. 728, this Court had before it Section 13 of the Act of July 12, 1882, which made a wilful violation of Section 5208 of the Revised Statutes criminal. After quoting at length from *Potter* v. *United States*, this Court, by Mr. Chief Justice Fuller, said (p. 735):

> "The wrongful intent is the essence of the crime. If an officer certifies a cheque with the intent that the drawer shall obtain so much money out of the bank when he has none there, such officer not only certifies unlawfully, but the specific intent to violate the statute may be imputed. And so evil design may be presumed if the officer purposely keeps himself in ignorance of whether the drawer has money in the bank or not, or is grossly indifferent to his duty in respect to the ascertainment of that fact."

These cases establish the meaning of the word "wilful" as ordinarily used in Federal legislation. This meaning is in accord with the great weight of authority.

In 40 Cyc. pp. 944, 945, 946, it is said:

> "But generally in penal statutes the word 'wilful' or 'wilfully' means something more than a voluntary or intentional act; it includes the idea of an act intentionally done with a bad motive or purpose, or, as it is otherwise expressed, with an evil intent, legal malice, in a wanton manner, without justifiable excuse or reasonable ground for believing the act to be lawful, or with a reckless disregard of the rights of others."

Many cases are cited in support of this definition.

If, in the present case, it is deemed necessary to resort to any rule of construction, manifestly that rule is applicable to the effect that where Congress uses a term which has received judicial interpretation by this Court, it must be presumed that the term has been used with this interpretation. The decisions of this Court in the interpretation of the language of Federal statutes are to be read into all statutes where similar language is employed. This is a rule of manifest importance in giving appropriate consistency and certainty to Federal legislation.

The Abbotsford, 98 U. S. 440;
Logan v. *United States*, 144 U. S. 263, 301;
Kepner v. *United States*, 195 U. S. 100, 124;
Latimer v. *United States*, 223 U. S. 501.

That the word "wilful" as used by Congress in the present Act must be taken to signify a violation of the Act with a corrupt purpose is made clear beyond a doubt by a consideration of the many other provisions of the Act which it is possible for a candidate unwittingly to violate.

The Act of Congress of June 25th, 1910, was entitled "An Act providing for publicity of contributions made for the purpose of influencing elections at which representatives in Congress are elected." It applied to every political committee "which shall in two or more States influence the result or attempt to influence the result of an election at which representatives in Congress are to be elected" (Section 1). Every political committee was required to have a chairman and a treasurer and it was made the duty of the treasurer to keep a detailed and exact account of all contributions

and expenses. This committee was required to file a statement of its contributions and expenses with the clerk of the House of Representatives at Washington within thirty days after the election at which representatives to Congress were chosen in two or more States. It was also provided that any person not a member of the committee who expended or promised any sum of money in excess of $50 for the purpose of influencing or controlling, in two or more States, the result of an election at which representatives to Congress were elected, unless he made his contribution to a political committee, should be required to file a similar statement in the office of the clerk of the House of Representatives at Washington.

The wilful violations of the provisions of the Act which were made crimes, by this statute consisted in the refusal of a committee or of an individual to file any statement as required by the Act, or if a statement should be filed, a failure to have it include all the contributions and expenses as defined by the Act.

It is plain that if the statement which is required to be filed did not contain all the contributions and expenses, but it clearly appeared that these were omitted unintentionally, there would be no "wilful" violation of the Act and hence no offense committed under the Act. Obviously, in any statement of expenditures mistakes are likely to be made. Congress never intended that a candidate should act at the peril of a violation of a criminal law in making his statement of expenditures, provided he acted honestly and in good faith. In case a candidate filed his statement and subsequently it turned out that an expense had been incurred, but the candidate was not aware of this fact at the time of

preparing his statement, it is inconceivable that Congress could have intended that such a mistake should be punished by imprisonment.

So, also, with respect to the limitations fixed upon the candidate's expenditures. If, through oversight, a candidate should exceed the limit placed upon his expenditures by the Act, it is not to be supposed that Congress intended that for such a mistake a candidate should go to jail.

The English Act has the counterpart of this provision in its express statement that honest mistakes shall not be considered violations of the Act. (12 Halsbury's Laws of England, 398-408).

If it should be suggested that the alleged mistake of the defendants was one of law and that the maxim of "*ignorantia legis neminem excusat*" applies, the answer is plain. Where the statute requires a specific intent as an element of the offense, it makes no difference whether the absence of this intent is due to a mistake of law or to a mistake of fact.

In *Cutler* v. *State*, 36 N. J. L. 125, there was a criminal prosecution against a Justice of the Peace for extortion. It was shown that he exacted fees to which he was not entitled under a mistake as to his legal rights, and the argument was made that such a mistake afforded no defense. The Court held otherwise and said (p. 127):

> "But it is further argued on the part of the prosecution, that as the fees to which the Justice was entitled are fixed by law, and as he cannot set up, as an excuse for his conduct his ignorance of the law, his guilty knowledge is undeniable. The argument goes upon the legal maxim *ignorantia legis neminem excusat*. But this rule, in its application to the law of crimes, is subject, as it is sometimes in

respect to civil rights, to certain important exceptions. Where the act done is *malum in se*, or where the law which has been infringed was settled and plain, the maxim, in its rigor, will be applied; but where the law is not settled, or is obscure, and where the guilty intention, being a necessary constituent of the particular offense, is dependent on a knowledge of the law, this rule, if enforced, would be misapplied. To give it any force in such instances, would be to turn it aside from its rational and original purpose, and to convert it into an instrument of injustice. The judgments of the courts have confined it to its proper sphere. Whenever a special mental condition constitutes a part of the offense charged, and such condition depends on the question whether or not the culprit had certain knowledge with respect to matters of law, in every such case it has been declared that the subject of the existence of such knowledge is open to inquiry, as a fact to be found by the jury. This doctrine has often been applied to the offense of larceny. The criminal intent, which is an essential part of that crime, involves a knowledge that the property taken belongs to another; but even when all the facts are known to the accused, and so the right to the property is a mere question of law, still he will make good his defense, if he can show, in a satisfactory manner, that being under a misapprehension as to his legal rights, he honestly believed the articles in question to be his own. *Rex* v. *Hall*, 3 Carr. & P. 409; *Reg.* v. *Reed*, Carr. & Marsh, 306."

The case of *Cutter* v. *State* was quoted with approval by this Court in *Stone* v. *United States*, 167 U. S. 178. That was a civil action brought by the United States to recover the value of timber unlawfully cut from the lands of the United States in Idaho. The defense was made that defendant

had already been indicted criminally for cutting such timber and had been acquitted. The Court pointed out the distinction between the civil action and the criminal action which had preceded it and said (pp. 188, 189):

> "In order to convict the defendant upon the indictment for unlawfully, wilfully and feloniously cutting and removing timber from lands of the United States, it was necessary to prove a criminal intent on his part, or, at least, that he knew the timber to be the property of the United States. *Regina* v. *Cohen*, 8 Cox C. C. 41; *Regina* v. *James*, 8 Car. & P. 131; *United States* v. *Pearce*, 2 McLean, 14; *Cutter* v. *State*, 36 N. J. Law, 125, 126. But the present action for the conversion of the timber would be supported by proof that it was in fact the property of the United States, whether the defendant knew that fact or not. *Wooden-ware Co.* v. *United States*, 106 U. S. 432. *An honest mistake of the defendant as to his title in the property would be a defense to the indictment*, but not to the civil action. Broom's Leg. Max. (5th ed.), 366, 367." (Italics ours.)

Moreover, in *Potter* v. *United States*, *supra*, the question of whether the arrangement made between the defendant Potter and Evans & Company was sufficient to authorize the certification of a check was a question of law. Nevertheless, it was held that defendant did not "wilfully" violate the statute there in question.

In *Vogel* v. *Brown*, 201 Mass. 261, there was a prosecution under a statute imposing a penalty upon any person "who wilfully and corruptly" demanded for the performance of his official duty a fee in excess of that which was allowed by law. The Court held that under such a statute ignorance

of the law constituted a complete defense. The Court said (pp. 262, 263):

> "The presiding Judge had before him for determination the question of fact whether the defendant wilfully and corruptly demanded and received an excessive fee. A finding for the plaintiff would have involved a finding that the defendant had a wilfully corrupt purpose in demanding and receiving his compensation. He could not have had such a purpose unless he knew that there was a prescribed fee for solemnizing a marriage, and knew what it was. It is at least conceivable that there are many ministers and justices of the peace in the Commonwealth who are ignorant on this subject. There was no evidence of the defendant's knowledge of the statutory provision for compensation and, *upon the question whether one acts corruptly, there is not a conclusive presumption that one knows the law.*" (Italics ours.)

Clearly, the point of the requirement that the violation must be wilful, is not concerned with the *character* of the mistake, so long as the mistake is made in *good faith*. As the decisions above cited show, in the case of a statute of this sort the mistake may be one of law and yet the opinion be held upon reasonable grounds and there may be an utter absence of any "wilful" violation. When, in a case like this, the reference of the Federal statute is to the standard set up by the statute of the candidate's State and that standard only relates to the candidate's own expenditures and the candidate has not in any way violated the State statute it is quite plain that he may suppose upon reasonable grounds that the Federal statute does not apply to what is expended out of moneys contributed by others. As we have argued, this is

in truth the only reasonable construction of the statute, but certainly it is a view that could have been taken upon reasonable grounds and a view that Mr. Newberry and his supporters could entertain without being charged in any way with bad faith.

The point is that the statute did not prohibit mere expenditures in excess of the limit, but a wilful violation of the statute, and there was no wilful violation where the candidate himself was contributing and expending nothing and supposed in that case the statute to be inapplicable. There could be no stronger case of good faith for, as we have seen, there was no violation either of the Michigan statute or of the Federal *proviso*. Nor had there been any construction by any court of the Federal statute which showed it to be applicable to a case of this sort. When the Federal statute pointed to the State law, it was natural that Mr. Newberry and his supporters should look to that law and should be guided by that law in conducting the campaign.

The absence of good faith is an essential element in the offense as defined by the statute. Where there is good faith there can be under this statute no "*wilful*" violation. It was therefore error for the Court to deprive the defendants of the benefit of their actual good faith, which cannot be disputed.

THIRD: The District Court erred in refusing to direct a verdict for the defendants.

(a) *Because the statute was invalid.* The Constitution gives Congress authority to make regu-

lations as to the "Manner of holding elections for Senators." The statute purports to fix a limit upon candidates' expenditures at a nominating primary. By no process of construction may a nominating primary for the selection of candidates for the office of Senator be held to be an election for Senator within the meaning of the Constitution. The statute is without constitutional authority and affords no basis for the conviction.

(b) *Because the statute was inapplicable.* The statute in question did not purport to regulate or control the voluntary political activities of the citizens of a State in support of candidates for the United States Senate. It did not place a limit upon the expenditures which citizens could make in behalf of a candidate. The evidence shows that the money that was expended in the Newberry Senatorial campaign was voluntarily contributed and expended by friends and supporters of Mr. Newberry. The statute has obviously no application to the facts of this case and the strained construction placed upon it by the District Court in order to secure the conviction was wholly unjustified.

(c) *Because there was no proof of wilful violation on the part of any of the defendants.* The word "wilful" as used in this statute may not be rejected as surplusage. It means that a specific intent to violate the provisions of the statute is an essential ingredient of the offense. The defendants acted in perfect good faith, believing upon reasonable grounds that their action was lawful. If they were mistaken in this belief, it was nevertheless an honest mistake made upon

reasonable grounds. There was no intent to violate the provisions of the law and this essential element of the offense prescribed by Congress is wholly lacking.

(d) *Because there was no proof that either Senator Newberry or any of his co-defendants had conspired to violate the statute.*

In approaching a discussion of this problem we emphasize at the outset the thought that to establish proof of guilt of a conspiracy there must be a showing of wrongful purpose and evil intent. Not alone that but in the case at bar the Government must establish beyond a reasonable doubt that these men conspired to the end that Truman H. Newberry *should wilfully cause to be given* to a campaign, otherwise legitimate, more than $3,750.

It is proposed to set forth in exact detail precisely what this record shows as to each of these defendants.

John S. Newberry:

The defendant, John S. Newberry, is mentioned as a contributor to the campaign in the so-called "Blair report" (Transcript, pp. 281, 283, 311). This report was obviously inadmissible as against this defendant, there being no evidence in the record to connect him with participation in the campaign. He is referred to by only three witnesses, Crotty (*id.*, p. 311), Kilfoyle (*id.*, p. 173) and King (*id.*, p. 670) and in no instance as taking a part in the campaign.

The witness W. J. Crotty (Transcript, p. 311) was employed until June 15, 1918, as cashier and

bookkeeper by the Estate of Helen H. Newberry. He testified:

> "Up to June 15, 1918, moneys in various sums from the account of John S. Newberry, aggregating between $15,000 and $20,000, had been turned over to the Newberry Senatorial Committee" (*id.*, p. 311).

The witness Kilfoyle was employed as a stenographer in the offices of the same estate. She testified that she had seen Mr. John S. Newberry in the offices of the Newberry Estate (*id.*, p. 173).

The only other mention of Mr. Newberry's name in this entire record appears in the uncontradicted testimony of the defendant Paul H. King, as follows:

> "I do not know as I could say when I first saw John Newberry in my life. I saw him, I think, when he was home on a furlough sometime during the campaign and I was introduced to him. He was never in the headquarters, that I recall. Commander Newberry was not in Detroit during the campaign. I never got a letter or a telegram from John Newberry. I do not know of his writing any letter or telegram to any one connected with the organization. When I met him, he did not talk politics with me and I never talked politics with him" (*id.*, p. 670).

On the foregoing testimony, which contains every reference to John Newberry in this entire voluminous record, he stands convicted of a felony.

George S. Ladd:

Mr. Ladd was a witness before the Grand Jury. The Grand Juror Higbee was permitted to testify

to his then recollection as to what Ladd had told the Grand Jury (*id.* p. 624). Without quoting it in exact detail, he told the Grand Jury he went to Detroit in response to an invitation from Horatio Earle who requested him to make speeches for Newberry and who introduced him to Paul King at the Detroit headquarters. He said it was E. V. Chilson who gave him $100 in cash for his expenses and who mapped out the territory he was to cover. He was not advertised as speaking for Newberry but as speaking in favor of good roads and other subjects at farmers' meetings. He received $250 more by check when he was through with the work in which he was engaged for about two and one-half weeks. At the close of the Government's case, the foregoing was all there was in this record concerning the defendant Ladd, yet the Court declined to direct a verdict in his favor. He was not even a resident of the State of Michigan but traveled from Massachusetts to Michigan and back on this errand and his whole connection with this group of strangers consisted of speaking ten or twelve times. He was a witness in his own behalf after the court had declined to direct a verdict and the only difference between the Grand Jury testimony and his testimony in his own behalf is that he insisted he did not tell the Grand Jury that it was understood he would not be advertised as speaking for Mr. Newberry. Obviously, so far as affecting the merits of this case, this difference in testimony is totally immaterial. The real and essential fact remains that when he came to Michigan he had never seen nor heard of any one of the one hundred thirty-five indicted men. He never met but two of them—Mr. King and Mr. Chilson. He was

given one payment of $100 in cash for expenses on his arrival and a subsequent payment by check to reimburse him for his time, travel and expenses while away from his home in Massachusetts.

Should a jury be permitted to infer on such a record that this man had a guilty knowledge of a design or purpose that Truman H. Newberry should wilfully cause to be spent more than $3,750?

William J. Mickel:

This respondent has the distinction of being the only Democrat before the Court, He is introduced in the case by the witness Hamilton (*id.*, p. 147). Miss Hamilton had been one of the stenographers in the Newberry headquarters. She attended a convention of the Women's Relief Corps in 1918 where she met Mr. Mickel.

> "Mr. Mickel said that he was a Democrat, but that he was going to work for Mr. Newberry, also that he was going to put up some man that wouldn't have any show on a Democratic ticket; he would do that if he had to run himself. Mr. Helme's name was mentioned at that time by Mr. Mickel, but I cannot tell you just what it was" (*id.*, p. 147).

The witness Nawrot was a printer. He testified that the concern with which he was connected printed the Helme petitions and said:

> "I saw the defendant, William J. Mickel, down there in connection with the arrangement for the printing. After they were printed, Mr. Mickel came down and got them himself. * * * Mr. Mickel, himself, paid for the printing of the Helme petitions. I do not remember how much" (*id.*, p. 285).

The witness, Oscar Kilstrom, was an undertaker. He took no active part in the Truman H. Newberry senatorial campaign. He testified:

> "Mr. Mickel is a Spanish War veteran and was also interested in the work of the Bolo Club. I undoubtedly consulted with him more or less. He was present at the Saginaw meeting, but I do not think I talked with him about the affairs of the Bolo Club or its purposes at that time. I believe he was present when the resolution to endorse Senator Newberry as a candidate was presented. As I recall it now, he seconded it. I do not recall that he spoke upon the resolution. I do not remember whether or not I discussed with Mr. Mickel the matter of endorsing Commander Newberry at that time. Afterwards, if I recall correctly, Mr. Mickel was traveling about the state more or less in his official capacity, and whenever he reached a city where there was a prospect to establish a Bolo Club, I believe he undoubtedly used his influence toward its organization" (*id.*, pp. 297, 298).

There has never been any controversy about the fact that Bolo Clubs are subsidiary organizations made up of members of the Spanish-American War veterans in order to enable these ex-service men to become actively engaged in politics on behalf of men similarly situated.

The witness, William Moore, is city assessor at Muskegon. He saw the respondent, Mickel, in Muskegon before the primary of 1918. Referring to Mr. Mickel, he testified:

> "He had some little thing in his hand which he said was some of Mr. Newberry's advertising matter. He said, 'this is our man.' I said to him I was a Democrat. I supposed he was of course. That is about the extent of the conversation in that regard at

> the time. After that Mr. Mickel called at my house in Muskegon. He had some petition blanks for Mr. Helme which he requested me to get signed. I told him I had already been with another gentleman and got some petitions signed for Mr. Ford; I could not do anything like that. He left the blank petitions with me. He said he was going over to the Great Lakes Training station that night and get some names on the Helme petitions" (*id.*, p. 344).

The witness, Rothfuss, was President of a bank in Adrian and identified certain letters as being in the handwriting of James W. Helme. They were addressed to Mickel with respect to the so-called Helme candidacy. These letters were obviously incompetent, produced in this manner, as against the defendant Mickel but they are entirely innocuous and merely show that Mr. Helme was considering whether or not he would be a candidate, finally decided that he would be a candidate and made certain plans concerning his candidacy (*id.*, p. 358).

The witness, Frensdorf, during the campaign of 1918 was the Democratic candidate for Governor. He testified that Mr. Helme introduced him to Mr. Mickel and that a conversation was had concerning Mr. Helme's candidacy for the United States Senate. During this conversation comment was made that Frensdorf had not seen any Helme petitions; whereupon it is alleged Mr. Mickel said (*id.*, p. 440):

> " 'We will take care of all that.' In some part of the conversation he spoke of a Bolo Club."

When Frensdorf commented upon some publicity Mr. Helme was getting, Mickel replied:

"They have all been fixed" or "That has been all fixed."

The witness, Barendsen, is proprietor of a cafe in Grand Rapids. He had known Mr. Mickel for about eight years. He testified:

> "In 1918 he came and wanted to see me about renting an office for the Helme headquarters. I talked with him about the idea. He was a Democrat himself, and he said it was not a question of being a Democrat or a Republican; it was a question of getting in another candidate against Ford in the field. He said the payment of the rent would be taken care of by him, that I need not be afraid of the rent; the rent would come all right, because it would come from the Newberry headquarters. He said that he was representing Helme, getting him in the field. I cannot tell the exact words he used about compensation for himself; I remember the use of words 'long green'. He said he was in it for the money that was in it; that is about all I can say about that" (*id.*, p. 541).

Mr. Mickel was a witness before the Grand Jury, and Grand Juror Highbee was permitted to tell his then recollection as to what Mr. Mickel had told the Grand Jury. In substance it was that he was dissatisfied with the Democratic policy of running Mr. Ford on the Democratic ticket; that he met Mr. King who introduced him to the respondent, Floyd; that his dissatisfaction was discussed with them and they encouraged him to get Mr. Helme in as a candidate; that Messrs. King and Floyd told him they could have the necessary names on Helme's petitions within twenty-four hours; that they told him they had men they could send to the Great Lakes Training Station and Camp Custer and they would pay these men $50 each and ten

cents a name. Mr. Higbee said that Mr. Mickel told the Grand Jury he was paid $20 a month by the Newberry Committee to take care of office expenses and they paid him $50 a week for Mr. Helme. He said they promised to pay him for his own time and effort but had never done so (*id.*, p. 626).

When Mr. King was on the stand he told of meeting Mickel; of hearing Mickel express his dissatisfaction with the Democratic arrangement of running Henry Ford, and of a discussion of the Helme candidacy. Mr. King said that in his presence there was no talk or suggestion of paying Mr. Helme to make the run (*id.*, p. 676).

Mr. Helme testified in his own behalf as to the activities of the defendant Mickel in securing Mr. Helme's consent to become a candidate for Senator in the Democratic primary.

Upon this record, Mr. Mickel stands sentenced to two years in Leavenworth penitentiary.

Allan A. Templeton:

This defendant's name first appears in this case in the testimony of Mr. Jay Hayden. He told of a conversation in which one of the persons present said:

"Allan Templeton is getting twenty-five thousand dollars." At that point the defendant Cody spoke up and said, among other things:

> "Why, anybody who has got any sense knows it is not so. Allan Templeton is not getting a cent. Allan Templeton is employed by a company in which Mr. Newberry is interested. He has always been associated in business more or less with Mr. Newberry, and he would do anything in the world for him" (*id.* p. 63).

Obviously, there is nothing damaging or incriminating in this alleged conversation.

Mr. Templeton's name next appears in the testimony of the witness Sweinhart. This witness quoted the respondent Cody as saying about the first of February:

> "* * * they hoped to have Mr. Allan Templeton head what they were going to call a representative citizens' committee that would sort of give a prestige to the campaign" (*id.* p. 69).

Two weeks later Cody told Sweinhart that this arrangement had been made at his personal request. The letter-heads of the Newberry Senatorial Committee show that Mr. Templeton was General Chairman of the Committee (*id.* p. 94).

The witness McDougal, one of the stenographers in Committee Headquarters, testified she knew Mr. Templeton by sight but did not know him personally and that she very seldom saw him in the offices (*id.* p. 82).

Miss Gilbert was another stenographer connected with headquarters. She said she knew Mr. Templeton and saw him in headquarters every other day (*id.* p. 132).

There are perhaps a half dozen telegrams in the record in which Mr. Templeton is either making or being requested to make engagements with various parties. None of them are of any consequence. His most direct connection with the expenditure of money arose through his friendship with Ex-Congressman Lindquist. Mr. Lindquist conceived the idea of using an elaborate mailing list in sending out circulars referring to a "Pure Merchandise Bill" and quoting Commander Newberry in favor of such a proposition. Apparently, as a

result of an informal talk between these two friends on this subject Mr. Lindquist was afterwards engaged by headquarters to send out one hundred thousand circulars and was paid by check $4,557 for his advertising campaign (*id.* p. 306).

On behalf of the defense, Mr. King testified concerning Mr. Templeton's connection with this campaign. When Ex-Senator Scott was endeavoring to interest Mr. King in the campaign he invited him to meet Mr. Templeton at the Statler Hotel in Detroit where they had dinner in Mr. Cody's room (*id.* p. 662). Mr. King afterwards told Mr. Templeton that he would accept the position of State Executive Chairman or Manager of a Committee of Mr. Newberry's friends (*id.* p. 665). The first money that was used in any way in connection with the campaign came from Mr. Templeton.

> "It was a check, I think, as I remember, for $1,000, to the order of Mr. Templeton, and endorsed by him" (*id.* p. 666).

The record is silent as to whose check this was.

The foregoing shows every place in this record where the name of Templeton is mentioned. His term of imprisonment is one year and six months.

Roger M. Andrews:

There is little in the record to show the extent of the participation of the defendant, Roger M. Andrews, in the campaign. He has been sentenced to one year and six months in the penitentiary. Mr. Andrews is a newspaper publisher, living in Menominee, Michigan. His name was early mentioned by the defendant Cody as one of those who were urging Commander Newberry to become a candidate for United States Senate (*id.* p. 59).

And he made one trip to New York in March, 1918, in company with the defendants Templeton and King (*id.* pp. 227, 690). He appears to have been in charge of part of the work of the campaign in the Upper Peninsula (*id.* pp. 59, 701, 705, 706). Only four witnesses testified to his activities in support of Mr. Newberry.

The witness, A. K. Moore, said that the defendant, King, told him that the reason he was taken out of the Upper Peninsula was because the defendant, Andrews, objected to his work there.

> "I know of no reason except that Roger Andrews did not want me to work up there. I think he told me at that time that Mr. Andrews had charge of the work in the Upper Peninsula" (*id.*, p. 99).

The witness, Rushton, over objection, gave testimony that clearly had no relevancy on the question of whether there was a conspiracy to induce, persuade or assist Truman H. Newberry to cause to be spent more than $3,750. The gist of his testimony is to the effect that Andrews induced him to become a candidate for the State Senate in his district; that afterwards Andrews told him he would have to support Truman H. Newberry for the United States Senate, and when he said he could not do that, Mr. Andrews did not support him for the Senate, but supported his successful opponent (*id.*, p. 194).

The witness, Quade, published a newspaper called the "Powers Tribune". In his paper he carried the regular Newberry Senatorial Committee advertising, although he was supporting the candidacy of Chase Osborn. He said Andrews urged him to support Newberry, but that he declined to do so; that after that conversation An-

drews urged him to run some advertising in addition to the advertising he was getting from the Detroit headquarters; that he did this and was paid by Andrews for the insertion of this additional matter. The sum paid was $9.60 (*id.*, p. 248).

The witness, Desetell, was a resident of Menominee. He was a Newberry man and was given $10 by Mr. Andrews to distribute Newberry cards (*id.*, p. 508).

The witness, Leaveck, said Mr. Andrews wanted him to take a lot of stuff of different kinds up into Lake Township in Menominee County. Witness promised he would do so and thought that Mr. Andrews paid him $10 for so doing. He said:

> "It was about county candidates. We had a whole bundle of them. I could not tell you how many candidates he gave me literature concerning. I guess we had every one for the whole Republican ticket" (*id.*, p. 511).

Sundry telegrams in the record indicate Mr. Andrews conferred with various interested parties in New York and Chicago presumably on this candidacy.

The foregoing is the entire record of his connection with the campaign.

E. V. Chilson:

His name first appears in this record through the discredited witness, Robards, who testified that he met Mr. Chilson on the streets in Hillsdale in the summer of 1918 and that Chilson said:

> "'I was down to Detroit the other day down to the Newberry Headquarters, and those boys down there are doing business.' I says, 'Is that so?' 'Yes', he says, 'they have

> tapped the barrel and the very first thing, right off from the bat, they gave the City Committee of Detroit $50,000 for their influence for Newberry.' I said, '$50,000!' He says, 'Yes, I know it.' He says, 'They are spending money like drunken sailors' " (*id.*, p. 329).

It afterwards appeared that there was no such thing as a "City Committee".

The defense was not permitted to show that the witness Robards had had a falling out with the defendant Paul King or with one of the indicted men, Mr. Prideaux (*id.*, pp. 330, 331). It was shown, however, that he would not be believed under oath in the county in which he lived (*id.*, pp. 660, 661. But see *id.*, pp. 920, 921).

The witness Porter testified that Mr. Chilson called on him in Lansing in the spring of 1918 in an effort to get some one to look after the interests of Truman H. Newberry's candidacy in Ingham County. Mr. Porter testified:

> "He said there was an organization to boom Mr. Newberry's candidacy, and that there was finances or money enough in sight to finance the campaign and pay the expenses, if there were any, in organizing the county" (*id.*, p. 340).

The three witnesses, Roy Herald (*id.*, p. 341), Charles C. Simons (*id.*, p. 546) and Charles P. O'Neil (*id.*, p. 343) are young Detroit lawyers. They testified Mr. Chilson employed them to make sundry speeches for Mr. Newberry. The same is true of John Smolenski, a Polish lawyer in Grand Rapids. He went up to Gaylord, Michigan, to address a Polish gathering; reported the fact that he had done so, received a letter of thanks from Mr. Chilson, closing with this sentence:

> "If you will mail me a statement of your expenses and services, I will be very glad to forward you check to cover the amount" (*id.*, p. 364).

It appears he received $42.40 (*id.*, p. 363).

The witness, Bovee, was an optician in Lansing. He testified that Mr. Chilson inquired at his store as to whether he was for Ford or Helme. Witness told Chilson he was not for Ford but was for any Democrat. Chilson told him that Helme was in the race and gave him some blank petitions to have filled out, paying him $20 for his services (*id.*, p. 364).

Marshal Campbell was a farmer and insurance man. Through the instrumentality of other parties he became active in looking after the interests of Mr. Newberry in the township of Aurelius, advancing $15 to another for doing some work. He told Mr. Chilson he had done this and Mr. Chilson gave him $15 in reimbursements (*id.*, p. 488).

The witness Pool appears to have been a colored orator. He addressed a group of his people at Albion, Michigan. Before going to the meeting he conferred with Mr. Chilson and some one paid him from $15 to $19 (*id.*, p. 591).

Aside from a few miscellaneous telegrams making engagements, the foregoing constitutes the entire record upon which Mr. Chilson was convicted of conspiring with Truman H. Newberry that the latter should willfully violate the Federal statute.

Milton Oakman:

The defendant, Milton Oakman, was County Clerk of Wayne County (*id.*, p. 441) and had been

active in politics for some time (*id.*, p. 442). Little appears as to his activities in behalf of Mr. Newberry. He was in charge of the Wayne County Committee of the Newberry Organization (*id.*, p. 771) and it appears that during the campaign he asked a number of persons to vote for Mr. Newberry (Thayer, *id.*, p. 456, Kunz, *id.*, pp. 456-457, Sommerfield, *id.*, p. 451).

In the spring of 1918, Mr. Oakman telegraphed to Mr. Newberry the fact that the Wayne County committee endorsed him for the United States Senate (*id.* p. 558), and received a telegram of thanks for the message in return (*id.* p. 558).

Miss Gilbert, one of the clerks in the committee headquarters said she saw him in headquarters; that he used to come in and talk to them (*id.* p. 132).

Mr. Lesnau was a deputy county clerk while Mr. Oakman was County Clerk. He testified during the campaign they had several meetings, but he did not recall any meeting concerning Mr. Newberry's candidacy before the primary. He remembered one meeting in which Mr. Oakman spoke of being interested in the entire Republican ticket. It seems that there were cards of a great many candidates on the desks in the County Clerk's office, including Newberry cards (*id.* p. 441).

The witness Sommerfield was also one of Mr. Oakman's deputy clerks. He told of a meeting during the primaries at which something was said about several candidates and among them Mr. Newberry's name was mentioned. There were some petitions there and the witness took one of them, Mr. Oakman saying he would like to have them circulated (*id.* p. 451).

The witness Baker was another employee in the County Clerk's office. He testified concerning a

meeting at which all the office employees were present and at which Mr. Oakman is said to have mentioned the fact that he would like to have them do what they could to help Mr. Newberry's campaign. He too received a Newberry petition and saw that all the clerks in the office had them (*id.* p. 454).

The witness Thayer (*id.* p. 456), was asked by Mr. Oakman to support Mr. Newberry.

The witness Kunz (*id.* p. 456) attended a luncheon at Mr. Oakman's home at which Mr. Oakman said he would like to have the boys support Mr. Newberry.

The witness Toepfer was an advertising man for the *Abend Post*, a German daily paper. He testified at Mr. Oakman's request he ran Newberry advertising in that paper and Mr. Oakman paid him $200 therefor.

Mr. Oakman's name has been connected with sensational testimony.

The defeated candidate Chase S. Osborn testified that he met the defendant Oakman on a boat going to a Republican picnic during the campaign and said, addressing Oakman:

> "'Milt, I understand why you are not supporting me'—he had been supporting me—but I have no feeling in the matter whatsoever. 'It seems to be to your interest. I was up there in Lansing, and they told me you were to receive $25,000, and at that time had $12,500', and so forth. He said that it was made very clear to him that his interest was to be with Mr. Newberry, and he had to look out for himself; that I knew the character of the fight, and what it took to put it up in Wayne County, and it was to his interest. I said, 'I don't blame you'. * * * I don't think I asked him directly whether he had received the other half of the $25,000. I simply said, 'I know you are to receive $25,000 or more,' and I think I

said, 'Make it cost them what you are worth,' something of that sort."

A distressing spectacle was presented by the testimony of the witness Henry A. Montgomery. Montgomery had been a reporter on the Detroit *Evening News*. During the primary campaign he was holding the office of Divorce proctor for Wayne County and was the Wayne County Manager for Chase S. Osborn, one of Mr. Newberry's opponents. He testified that on the occasion of a birthday party given for Johnnie Smith at Schiller Hall he had a talk with Respondent Oakman in which the respondent Oakman said he would have to be with Newberry because of the money there was in it. The night of the primary he claimed that Oakman said to him:

> "I am getting well paid for what I do and you are a blank fool if you are not getting paid well for what you do. * * * I think his words were something like it was worth $20,000 he had been promised and was to receive $20,000 for managing the Wayne County campaign for Mr. Newberry."

He afterwards qualified his testimony by saying that he did not know but that Oakman was kidding; that Oakman had explained to him that Oakman's brother Bob, during the real estate slump incident to the war, had been compelled to borrow a half million dollars, which loan was made to him by the Union Trust Company, of which Company Senator Newberry had been a member of the Executive Committee, and said because of this aid to his brother Bob he was for Newberry.

The extreme statements of the witness Montgomery are thoroughly discredited by the proof of

the fact that he was drunk on the occasions to which he testified.

Harry O. Turner:

Mr. Turner and Mr. Emery looked after the office management (*id.*, p. 668).

One of the stenographers, Miss McDougal, testified she was paid her salary every week by Mr. Turner (*id.* p. 81).

Miss McGrath, another stenographer, said she received her salary either from Mr. Turner or Mr. Emery (*id.*, p. 88).

Miss Ryan, another stenographer, likewise received her salary either from Mr. Turner or Mr. Emery (*id.*, p. 92).

The witness, A. K. Moore, (*id.*, p. 99) testified his salary of $75 a week was paid either by Mr. Turner or by Mr. Emery.

The witness Gorsline was a special officer in charge of the safe deposit vault in the First & Old Detroit National Bank. He said he saw Mr. Turner frequently in the safe deposit vault and that when he first tried to get into the box in the name of Mr. Emery, permission was refused until Mr. Fred Smith came down and vouched for him. The witness then testified as to various visits being paid to the vault by either Mr. Emery or Mr. Turner (*id.*, p. 128).

The witness Myers merely corroborates the witness Gorsline (*id.*, p. 130).

Miss Hamilton, one of the clerks, said she occasionally was paid her salary by Mr. Turner (*id.*, p. 147).

The same testimony was given by the clerk Dempsey (*id.*, p. 188).

The witness Coumans was an elevator conductor

in the Ford Building where the Newberry Committee had their headquarters. He operated the elevator Primary night from eight o'clock at night until 4:30 in the morning and Mr. Turner paid him $12.50 (*id.*, p. 321).

Mr. Williamson was night janitor in the Ford Building. He was employed to look after the Committee rooms at night, and for that service Mr. Turner paid him $62.50.

The witness Maceachron had been employed to interest the Commercial Travelers. His salary was fixed at $50. a week and it was paid to him either by Mr. Emery or Mr. Turner (*id.*, p. 404).

The foregoing enumerates every place in this record where the name of Turner appears. It shows that he occupied a clerical position, associated with Mr. Emery in charge of Committee Headquarters. There is no showing of any wrongful intention, wrongful act or criminal knowledge.

Hannibal A. Hopkins:

The conviction of Mr. Hopkins is one of the unique features of this trial. In the publicity department there were employed Mr. Hopkins, Mr. Phillips and Mr. Calnon. Their duties appear to have been identical and their activities on exactly the same lines except that Mr. Phillips seems to have been the active man in connection with the film called "Our Navy". The other two publicity men were acquitted. Mr. Hopkins was convicted. His connection with the campaign is perhaps best and most accurately told by Mr. King (*id.*, pp. 666-667).

It appears Mr. Hopkins wrote Mr. King, saying he was glad he had taken up the Newberry campaign and offering to render assistance. His

newspaper activities had been state wide. He was the editor of the "St. Clair Republican" and of a paper called the "Postmaster." He had been Postmaster at St. Clair and published this periodical which went to postmasters throughout Michigan. After a brief conference Mr. King engaged Mr. Hopkins as director of publicity at a salary of $500 a month, this being the same salary that Mr. Hopkins had received from the Republican National Committee under Mr. Frank Hitchcock.

The employees Marshall, McDougal and Kilfoyle all testify to seeing him around headquarters about which there, of course, could be no mistake.

The form of advertising contract used by the Senatorial Committee appears in the record (*id.*, p. 235). It purports to be signed by H. A. Hopkins, Director of Publicity. On the latter page also appears the form of preliminary circular letter sent to newspaper editors by Mr. Hopkins.

Perhaps a half dozen telegrams appear in the record with respect to the advertising part of this campaign either addressed to or signed by Mr. Hopkins (Exhibits 87-R and S, *id.*, pp. 376-377; Exhibits 93 to 93-E inclusive, *id.*, pp. 385 and 386).

Can it be fairly said that the foregoing testimony would warrant submitting his case to the jury?

James F. McGregor:

This is another peculiar conviction. Mr. McGregor is one of the so-called field agents or assistant secretaries. He had primary charge of work in the Upper Peninsula. It was his duty to organize the counties and see that they continued organized. He was no more and no less active than the other field agents and assistant secre-

taries, yet for some reason the others were acquitted and he was convicted.

Mr. King testified that he had known Mr. McGregor for a great many years and he had a conference with him very early in the campaign.

> "I told him that I would like very much to have his assistance as one of the assistant secretaries and one of the field men of our organization, and that I would like him to take charge of the Upper Peninsula counties if he would, and an arrangement was then made that he would take charge of those counties, and I think we agreed that his compensation should be $75. a week" (*id.*, pp. 680-681).

Miss McDougal and Miss Goldstine, clerks, testified that they saw him around the office occasionally.

The witness, Albert J. Young, lived in Escanaba (the Upper Peninsula). He was in the clothing business. Mr. McGregor called upon him and asked him to accept the management of the Newberry campaign for the northern part of Michigan. The witness thought he could not afford the time. Mr. McGregor assured him that it would not take much time; that he would merely have to rent a room, put in a stenographer or clerk and devote an hour a day. Mr. McGregor advised him he would be reimbursed for any expense incurred. The witness further demurred on the ground that he could not afford to give up his time. Mr. McGregor told him he probably would be reimbursed for his time. Nothing further came of this conversation (*id.*, p. 85).

The witness, A. K. Moore, said he met Mr. James McGregor in connection with this campaign but does not say under what circumstances, nor what he was doing (*id.*, p. 103).

The witness, Morris E. Richards, was a resident of Iron County, Michigan (the Upper Peninsula). He had a conference with Mr. King and Mr. McGregor concerning the Newberry campaign. He became the chairman of Iron County. Later he was called upon by Mr. McGregor who told him he would be reimbursed for any actual expenses to which he was placed. He thereafter rendered a statement of his expenses and Mr. McGregor reimbursed him in the sum of about $60. (*id.*, p. 159).

Mr. Walter W. Smith lived at the Soo (Upper Peninsula). At one time he had been a court stenographer and was employed by the respondent McGregor in October, 1918 (long after the primaries were over and when the work was being done by the State Central Committee) to take a dictated letter to Commander Newberry. He kept a copy and produced it on the trial. The letter appears as Exhibit 42 (*id.*, p. 165). It is an honest recitation of conditions in various Upper Peninsula Counties with no evidence of criminality or impropriety to be found in any part of it. It is interesting reading as it is typical of the character of the campaign conducted.

Because of the great distance between the Upper Peninsula and Detroit there appear a great many telegrams back and forth between McGregor and various parties connected with headquarters. For example a telegram to Mr. Floyd reads:

> "Baraga Gogebic Iron and Dickenson Counties in good shape, everybody enthused. Attack on the Commander making votes. Leave Wednesday for Escanaba. Yelland wants me to do some work. Letter tomorrow. Wire me here" (Ex. 89-a *id.*, p. 381).

The same day he wired Mr. King who on that occasion was in New York:

> "Had a charming visit today with O. C. Davidson, Oliver Mining Co. He wished me to convey to Commander his entire support and will so instruct his interests. Gogebic, Iron, Dickenson fine. Escanaba, Delta Hotel tomorrow until Sunday" (Ex. 89-b *id.*, p. 381).

There are upwards of two dozen similar telegrams in this record either to or from Mr. McGregor. There is no other testimony except the novel testimony of the witness Barry, who had met Mr. McGregor only once but testified that he heard McGregor say that he was going to New York to see Commander Newberry, adding:

> "We are going to get a real barrel this time" (*id.* p. 190).

Of course this conversation was long after the Primary when admittedly the entire matter was in charge of the Republican State Central Committee. There is no proof whatever that Mr. McGregor ever saw Commander Newberry or ever attempted to do so.

Frederick Cody:

Mr. Cody was a zealous friend of Mr. Newberry. It was Cody who went to Washington and interviewed Miller and Hayden concerning the prospective candidacy which was being urged upon Mr. Newberry by his Michigan friends (*id.* pp. 58-63).

The witness Sweinhart testified that Mr. Cody told him about the first of February they were hoping to get Paul King as manager of the campaign and they hoped to have Mr. Templeton head

the representative citizens committee (*id.* p. 69). The same witness likewise testified that perhaps two weeks later Mr. Cody told him these men had been secured (*id.* p. 69).

Former Mayor Marx of Detroit testified that he met Mr. Cody, Mr. Newberry and Mr. Robert Oakman in the Biltmore Hotel in January of 1918, at which meeting Commander Newberry said he was considering becoming a candidate. He further testified that Mr. Cody said that if Mr. Newberry did become a candidate it would take quite a load off his mind to know that the Marx organization would be with him. Mayor Marx knew Mr. Cody very well. The Newberry organization did not have the support of the Marx organization.

Mr. Fitzgerald, another witness, was the Mayor's secretary at one time. He and Mr. Larned, a prominent Detroit citizen, were in New York in January about to sail for France. Mr. Cody visited them and asked Mr. Larned what he thought of Mr. Newberry for the United States Senate. Mr. Larned said he did not think much of it. Mr. Cody asked him his reasons and Mr. Larned named them. What they were, does not appear in the record (*id.* p. 75).

The witness Frost was a Naval officer during the war and came in close contact with Commander Newberry during that period. He testified he saw Mr. Cody in Commander Newberry's office often (*id.* p. 75).

Miss McDougal and Miss Kilfoyle, office clerks, testified (*id.* pp. 81, 172) that they had occasionally seen Mr. Cody in headquarters, Miss McDougal having seen him in the office once and Miss Kilfoyle having seen him in the office of the Newberry Estate once.

Mr. Gibson, a clerk from the Hotel Statler in Detroit, showed from his records the occasions when Mr. Cody visited Detroit; whether to see his brother or mother, or for political purposes or business purposes, not appearing (*id.*, p. 140).

Mr. Crotty, cashier and bookkeeper of the Estate of Helen H. Newberry, occasionally saw Mr. Cody in those offices (*id.*, p. 311).

A few telegrams indicate arrangements being made, largely prior to the candidacy, for meetings by Mr. Cody with interested parties.

The defendant King testified concerning his knowledge of Mr. Cody's connection with the campaign. He met Mr. Cody through Ex-Senator, George Scott, and had dinner with him and Mr. Templeton when they discussed the desirability of Mr. King becoming executive manager of the campaign (*id.*, p. 662). Later, when Mr. King was discussing with Mr. Newberry the proposition that he manage the campaign, Mr. Cody was present (*id.*, p. 664).

This record fairly sets forth the testimony concerning Mr. Cody's activities.

Richard H. Fletcher:

The defendant, Richard H. Fletcher was State Commissioner of Labor in 1918 (*id.*, p. 251). His activities in behalf of Mr. Newberry were carried on in Bay and Midland Counties (*id.*, pp. 750, 764). The only evidence in the record connecting him with the expenditure of money is that of the witness Kelly, who said that he was paid $50. for securing signatures on petitions for the nomination of James W. Helme (*id.*, pp. 219-220).

Frank M. Sparks testified that he lived in Grand Rapids, and had known the defendant Richard

Fletcher at least ten years; that he had a conversation with Mr. Fletcher in his office in Lansing, in which the matter of the expenditures by the Newberry Senatorial Committee was referred to. The witness testified that he made the statement that he believed that rather than $176,000 the campaign must have cost nearer half a million, and Mr. Fletcher said, "A half a million, hell! It cost nearer $800,000, and I know what I am talking about." The witness was not sure whether Mr. Fletcher said that Ford spend eight times as much as Newberry (*id.*, p. 251).

Hugh Stewart testified that Mr. Fletcher had advised him to support Mr. Newberry and not Mr. Osborn and that it was Mr. Fletcher's purpose to defeat "every man, either state or county, who doesn't line up with the Newberry campaign." Mr. Fletcher is said to have added "Mr. Henry here is handling the money in this county. He is going to build up an organization strong enough to defeat all of you men who are not with Mr. Newberry. You are going to be defeated if you do not get on and help elect him." (*id.*, pp. 316-317).

William Lynch, who was a County Stone Road Commissioner said that in 1918 Mr. Fletcher asked him to support Mr. Newberry and said: "You always holler for stone roads; if you want any of my support for stone roads you will have to get out and hustle for Mr. Newberry" (*id.*, p. 521).

The Government attempted to show by the testimony of a handwriting expert that Mr. Fletcher had forged certain names appearing upon the Helme petitions (Courtney, *id.*, pp. 578-579). This testimony was controverted (*id.*, pp. 908-913), and the charge was not sustained.

One McKeighan proved a picturesque witness. He had been at one time Mayor of Flint. He had

been prosecuted for the illegal sale of liquor. During the primary campaign he was under conviction and sentence for assault and robbery, being out on bail pending a review of his case by the Supreme Court. His testimony has nothing whatever to do with the use of funds but is peculiarly interesting. He said a group of Newberry men solicited his support, which he was rather reluctant to give; that money was talked, but he was not tempted; that finally the defendant Fletcher said to him in substance and effect that he knew he was not interested in money but he knew he was interested in having his case reversed in the Supreme Court and stated in effect that they would watch his district and if he carried the district he would be taken care of; if he did not he would go to jail. After detailing this conversation the same witness added: "The District was carried for Newberry. My case was reversed" (*id.*, pp. 312-316). Of course, the implied reflection on the character and standing of the Supreme Court of Michigan is disgusting to every lawyer and every right-thinking citizen, but the testimony is so bald that it speaks for itself.

Ford Henry:

Mr. Henry was a subordinate of Mr. Fletcher in the State Labor Department (*id.*, p. 245). He lived in Flint, Michigan (*id.*, p. 245) and was one of Mr. Newberry's supporters in that locality. A number of witnesses for the Government testified that Mr. Henry paid them for their services in connection with the campaign (Francis Corcoran, *id.*, p. 480; Truesdale, *id.*, p. 453; Wynne, *id.*, p. 473; Love, *id.*, p. 483; Madigan, *id.*, pp. 331-337).

He is said to have told one Prescott that the latter was foolish not to be for Newberry, as "there was a chance to get a nice piece of change out of it; that he had just banked $2,000, and more was on the way" (*id.*, p. 480). Two other witnesses testified as to talks with Henry, in which money was referred to as available in payment for their services (McKinley, *id.*, pp. 245, 246; Halligan, *id.*, pp. 365, 368).

Charles A. Floyd:

The defendant, Floyd, was a friend of Mr. King (*id.*, p. 673). Early in March, 1918, the defendant, King, asked him to be associated with him in the campaign. He was well acquainted throughout the State and seemed to Mr. King a valuable man as field secretary (*id.*, p. 686). His first work was to travel through a number of counties in the State and confer with leaders in these counties (*id.*, p. 686). Subsequently, at the request of Mr. King, the defendant, Floyd, went to Grand Rapids and took charge of the campaign in western Michigan (*id.*, p. 674). There was no arrangement for his compensation (*id.*, p. 674).

The witness, Delamater, testified that she had seen Mr. Floyd in consultation with Mr. King occasionally when he was at headquarters (*id.*, p. 78).

Harry Viger distributed literature in and about the city of Grand Rapids (*id.*, pp. 83, 84) and received instructions occasionally from the defendant, Floyd.

Allan K. Moore traveled throughout the State interviewing leading politicians and business men for the purpose of ascertaining whether they favored Mr. Newberry's nomination (*id.*, pp. 97, 98).

He was paid $75 a week (*id.*, p. 98) and worked largely under the direction of Mr. Floyd, although he was employed by the defendant, King (*id.*, p. 99).

August Kletbusch testified that he was paid $25 by defendant, Floyd, for distributing cards in behalf of Mr. Newberry (*id.*, p. 162).

William H. Yearond, prosecuting attorney of Wexford County, testified that he and several others had dinner with Mr. Floyd, which was paid for by the latter (*id.*, p. 175).

Mr. Floyd is mentioned at other places in the record, but we do not feel justified in prolonging this brief by giving a complete citation of the places where Mr. Floyd is referred to. The character of the testimony is apparent from the instances already given. Mr. Floyd was induced to accept his position with the Newberry Senatorial Committee through his friendship with the defendant, Paul H. King. The evidence as to Mr. Floyd, like the evidence concerning the other defendants, in no way tends to show that Mr. Floyd had the slightest intimation that the expenditures of the Newberry Senatorial Committee were being caused by Mr. Newberry, which, indeed, was not the fact, let alone the proposition that he entered into a conspiracy to assist Mr. Newberry in wilfully violating the Act of Congress in question.

The above statement indicates in sufficient detail the relation of each of the convicted defendants (aside from Mr. Newberry and Mr. King) to the Newberry senatorial campaign.

The activities of Mr. King are sufficiently indicated by the statement of the case.

Mr. Newberry was not in Michigan during the campaign. He was advised frequently as to its

progress, and approved of some of the suggestions of the committee. Rarely, if ever, has a campaign been conducted with less participation upon the part of the candidate by "advice" and "counsel" than the one under consideration.

Here is a story of a group of men in Michigan, with the World War at its most critical period, endeavoring to interest a verile, patriotic American in public life; a story of the organization of a Businessmen's Committee with an executive head; a story of the most elaborate publicity campaign ever launched in that state—a campaign unique in that the candidate was never in headquarters and was never in the State; he never made a speech and he never gave out an interview. In the judgment of the Committee the situation demanded that the merits of their candidate be brought before every voter in the State of Michigan in no uncertain manner. Mr. King openly and honestly took the position that legitimate expenses would be paid. The defendants were not allowed to show the honesty of motives and the good faith of this candidacy, nor were they allowed to go into the details or make an argument over the fact that Mr. King conducted the campaign with the statutes of the State of Michigan in front of him and as his constant guide. The Court interrupted Mr. Littleton's argument when he started to point out this evidence of an honest purpose by saying that so far as the first count is concerned it would not matter whether Mr. King was mistaken in his construction of the law or not (*id.*, p. 928).

The Federal Statute, as already pointed out, requires that to constitute the offense of violating

the so-called "publicity law" the action must be wilful. Where the record affirmatively shows a complete absence of evil design, criminal intent or wantonness of action, and where it further appears that the defendants were not permitted to show the real motives which prompted their actions, can it be said they have had a fair trial? We were prepared to offer proof and but for the rulings of the Trial Court would have done so, that the whole plan and scheme of the Business Men's Committee was predicated upon the Michigan law by virtue of which law a Committee as distinguished from the candidate, could, for eleven enumerated legitimate purposes, spend money without limit.

The case was destitute of any basis for conviction.

FOURTH: The District Court erred in its conduct of this case in denying lists of witnesses, in summoning the jury and in its rulings upon questions which arose during the trial.

Before discussing these errors we may direct attention to the language of a recent decision relating to the viewpoint to be adopted in considering such questions:

> "The real object of the review by appellate courts of trials in lower courts is to determine whether, according to recognized rules of procedure, they were fair and impartial, and if, in a criminal case, there is serious doubt upon that subject, to make sure by another trial that the accused has a trial that is fair and impartial. This is the pur-

pose which guides appellate courts in their examination of assigned errors of law claimed to have unfairly influenced the result in the trial court. If the administration of justice is to be practical and substantial, and not merely theoretical, both trial and appellate courts must strive to ascertain the real substantial effect upon the jury of the action of the trial court.

In the consideration of the question in any case, and especially in the case in hand, the time of, and the circumstances and atmosphere surrounding the trial, as they are revealed by the record, or as they are influenced by facts known of all men, and the real substantial effect upon the jury of the action of the trial court, are the decisive conditions by which the fairness of the trial must be tested" (*Stokes* v. *United States*, 264 Fed. 18, p. 24).

The rulings to which we shall refer, which were made in the course of the trial, cannot be disregarded as harmless. And for the purpose of showing the prejudice to the defendants, we think it proper to refer to the attitude of the court during the trial.

The attitude of mind of the District Judge in this case, as shown by his acts and utterances was highly prejudicial to these defendants from the beginning. Here was a trial of national importance, reported by the press throughout the land, in which obviously the keenest interest was manifested in its progress. As is well known, the constitutions of the overwhelming majority of the States of the Union require a list of witnesses to be available to an accused before he goes on trial. As shown in another portion of this brief some courts so provide by rule and some courts have issued such an order upon application. The prac-

tice is not universal but general. When this motion was argued before the Trial Court, immediately at the close of the argument it was announced that the court had already fully determined what ought to be done, and then followed language indicating the attitude of mind of the District Court.

> "The law invests no man with a halo because he is indicted and charged with crime. At this stage of the case the law does not require the Court to presume that the indictment is false and untrue and that the defendants are innocent of the charge made against them. * * * It should, after all, be borne in mind that the object of criminal proceedings is to convict the guilty as well as to shield the innocent" (Transcript, pp. 6, 7).
>
> "A conspiracy is conceived and born in secrecy and darkness, and the difficulties of proving its existence are usually very great. Sometimes, when a conspiracy actually exists, the difficulties are insuperable. * * * Who knows whether or not any named person took part in the conspiracy, if one existed? Is it not the defendant himself? This is not a matter of theory, but one of practical common sense" (*id.*, p. 8).
>
> "Every man who is here accused not only knows his own guilt or innocence, but also knows the exact part taken by him in the campaign out of which this prosecution grows. If he paid out or received money he knows it. He knows to whom he paid and from whom he received money. He knows the purpose of the payment or of the receipt" (*id.*, p. 9).
>
> "Ofttimes a person will volunteer valuable information, which is not competent testimony, provided his name shall not be disclosed. To require a disclosure of the names of such witnesses would necessarily close their mouths. The granting of this applica-

> tion would not be of material benefit to the defendants and might work a great hardship upon the government, and might result in a miscarriage of justice" (*id.*, pp. 9, 10).

Later on in the proceeding an argument was had upon the demurrer to the indictment. This argument primarily presented the constitutional question as to the right of Congress to regulate the State-wide primary. The decision on the demurrer did not require flamboyant language, yet note the language used and bear in mind the publicity given to it and the natural effect upon the minds of the readers.

> "If, as urged by counsel for respondents, Congress is impotent to enact laws to prevent a candidate for the office of United States Senator from procuring his nomination and election by the lavish expenditure of huge sums of money, and by the corruption of the electorate through bribery, then money rather than fitness and ability becomes the controlling political force and not only the dignity and honor but also the very life of the nation is threatened and endangered. Because of its hidden and insidious character and the difficulties of discovery, conviction and punishment, the corrupting influence of money, when directed toward and into Congressional elections, is infinitely more to be feared and more deadly to American ideals, American institutions and the American Government than the terrors of the Ku Klux, the coarse practices of the ward heeler, or the dishonesty of the custodian of the ballot box" (*id.*, p. 13).

Consider the foregoing language in the light of this conviction and of its necessity as incident to a determination of the argument on the demurrer.

Speaking of a candidate for the Senate in the same opinion, the court said:

> "When faced with a charge of this character, it is no defense for him to say that, through either oversight or design, the same conduct by others has not been made criminal or punishable; or to resort to that last refuge of the wrongdoer who, when ensnared and enmeshed in the toils of the law, seldom fails to raise the cry that others have done the same thing and have gone unwhipt of justice" (*id.*, p. 14).

Speaking of the use of money for advertising, obviously totally unnecessary in deciding the demurrer, the Court continued:

> "But when the candidate for public office pursues like methods and by subsidizing and purchasing the powerful influence of the Public Press, in either editorial or advertising columns, and by buying the services of field and office agents and skillful political propagandists, succeeds in securing the coveted position, which he could not have obtained by usual and legitimate means, the result, although beneficial to himself, necessarily weakens the moral fiber of the people and lessens their respect for our institutions and our form of government" (*id.*, p. 15).

As a matter of fact the Michigan State primary law expressly provides that a Committee, as distinguished from a candidate, may spend for eleven enumerated legitimate purposes all the money they may wish to spend.

In the same opinion there is equally intemperate language:

> "It is such acts and conduct of men prominent in public life and affairs as those de-

picted and portrayed in this indictment that lend color of truth and semblance of reason to the mad ravings and rantings of the enemies of organized government already too numerous in our midst. If such intolerable conditions cannot be corrected and prevented by the strong arm of the Federal law and must be endured, then our boasted freedom and equality have become mere mockery and delusion, and, henceforth, the hopes and aspirations of every man for political preferment, whatever his learning, ability and talents, must be measured and bounded by the size of his pocket book" (*id.*, p. 15).

"Can it be possible that Congress may protect the political stream from pollution in its lower reaches but is helpless to prevent the dumping of filth and poison into the spring at its source?" (*id.*, p. 15).

After thus creating an obviously unfavorable impression in the public mind and an erroneous impression as to the character of the prosecution, the Court then went out of its way to select a jury that was practically hand-picked and thrust upon these respondents. When the challenge to the array was being decided it was again made manifest that the court deemed this case different from an ordinary lawsuit.

"The exigencies of this case made it necessary to depart somewhat from the usual method, because certain matters which under ordinary circumstances would not disqualify, would disqualify in this case" (*id.*, p. 24).

"These respondents cannot be expected to be tried by a jury of relatives; they cannot expect to be tried by a jury of intimate friends; they cannot expect to be tried by a jury of business associates, and those were the questions which were propounded in that regard. Moreover, these respondents cannot

> expect to be tried by men who were actively engaged in the political campaign of 1918, the very campaign which is involved in this suit" (*id.*, p. 24).

The items enumerated by the Trial Court under certain conditions may have been grounds for challenge for cause but the process of eliminating should have been in open court, with all parties having an opportunity to be heard and not in chambers at the whim of the District Judge.

> "A man who was honestly, in the exercise of his good citizenship and his rights, active, ought not to be permitted to sit on this jury; no matter whom he supported, what party or what candidate, he ought not to be here on this trial, and I think that fairness will appeal to every man of intelligence" (*id.*, p. 25).

In open court at the close of the Government's case, in deciding various motions, the use of this highly prejudicial language was continued:

> "Assuming that count three is properly in the indictment, I am convinced that there is ample evidence to go to the jury as to the guilt or innocence of the respondents, or some of the respondents under that count" (*id.* p. 631).
>
> "As to a score or more, possibly two score, at least more than a score of these defendants, if this Court at this time viewing the case as it does, were to refuse to submit the case to the jury it would clearly, in my mind, be a miscarriage of justice" (*id.* p. 637).
>
> "At the same time, I believe that there is evidence from which the Jury would be warranted in finding a verdict of guilty in each case as the case stands at the present time" (*id.* p. 637).

> "There is ample testimony to warrant a verdict of guilty if the jurors see fit to render such a verdict" (*id.* p. 638).

As appears in more than one place in this record, the charge was made by the Government in the opening to the Jury that Truman H. Newberry set out to buy this nomination and election. It would seem highly important, if the Government is permitted to make such an absurd charge, that the defense be permitted to combat it. For that reason and to show honesty of purpose and an absence of criminal intent, the so-called George Miller letters were offered in evidence (*id.* p. 641). The Court said:

> "The question of the good faith of the candidacy of Senator Newberry is not in issue in this case" (*id.* p. 642).

These letters were written before the candidacy was determined upon; before any one dreamed of any prosecution. They are the frank, honest expressions of a man with no thought of future consequences coming from such correspondence. The defendant Newberry in one of them says:

> "* * * no one is more opposed than I to any improper or even questionable use of money, and not one cent will be spent by me or in my behalf with my knowledge and consent, that cannot be published to the world, and this keystone principle of my candidacy I wrote out and delivered months ago to those concerned" (*id.* p. 651).

During the argument of Mr. Littleton directed to show an absence of criminal intent and an effort to comply with the law, the court, of his own motion, interrupted the argument, saying:

> "So far as the first count is concerned it would matter not whether Mr. King was mistaken in his construction of the law or not" (*id.* p. 928).
>
> "* * * so far as the first count of the indictment is concerned, the subsequent section to the one which has been given to the jury specifying the purposes for which the $3,750 might be spent by the candidate, has nothing to do, because the federal statute provides the aggregate amount of money which may be expended and used for any legitimate purpose" (*id.* p. 929).

This, of course, is an obvious error. The Federal statute provides the aggregate amount of money which may be spent or caused to be spent *by the candidate*, but the Federal statute does not limit the amount of money which may be expended by a political committee in behalf of the candidate.

In his charge to the jury, after discussing the question of "reasonable doubt," the District Judge said:

> "This case involves matters which lie at the foundation of our form of Government and of the rights of American citizens" (*id.* p. 936).

The charge to the jury, as we have already seen, was practically to the effect that Senator Newberry was guilty of violating the Federal statute, leaving merely the question of conspiracy for their consideration (*id.* p. 941).

This manner of handling this case from its inception shows the atmosphere in which this trial was conducted, and the errors alleged in the admission of testimony should be considered with this atmosphere in mind.

The Court erred in denying defendants' motion for a list of witnesses.

While the granting or withholding of a list of witnesses to be produced at the trial in a criminal case (not capital) is within the discretion of this Court, this discretion should be exercised so as to accord to the accused the fundamental guarantee that:

> "In all criminal prosecutions the accused shall enjoy the right * * * to be informed of the nature and cause of the accusation; to be confronted with witnesses against him * * * and to have the assistance of counsel for his defense" (U. S. Const., Amendments, Art. VI).

The present indictment is for criminal conspiracy.

In *United States* v. *Aviles*, 22 Fed. 474, the Court said (p. 477):

> "If there is any case where the defendant is entitled to a list of the witnesses who are going to testify against him, it is in the case of a conspiracy, and it seems that, in order for the defendant to prepare properly for trial, he ought to have, not only a list of the witnesses that testified in the hearing before the grand jury, but a list of the witnesses that the prosecution expects to call on the trial of the case, at a time prior to the date of the trial that will enable the defendant to properly prepare his case to meet the testimony of such witnesses. One of the reasons, and it appears there are others, which now occurs to the Court, is that this indictment charges that certain named defendants conspired among themselves, and with other persons to the grand jurors unknown."

In order that the constitutional rights of the accused to be confronted with witnesses and to have the assistance of counsel in his defense may not be reduced to a mockery, there must be some cases where it is the duty of the Court to grant the application of the accused for a list of the witnesses to be produced against him.

In the present case it appears from the affidavit of defendants' counsel (Transcript, p. 4) and the facts set forth therein, it was utterly impossible adequately to prepare for trial, without being furnished with such a list of witnesses. There were one hundred and thirty-five defendants named in the indictment. Three hundred witnesses were called by the Government. It was obviously out of the question adequately to prepare such a case for trial without the relief sought.

Under such circumstances we submit that it was error to refuse to grant the motion for a list of witnesses who testified before the grand jury, or who were to be called by the Government at the trial.

The Court erred in its method of summoning the jury.

The challenge to the array (Transcript, p. 975-981) indicates the following circumstances:

(1) The Clerk of the court sent out a letter to the County Clerks in the various districts suggesting they send in suitable names for the panel. It is presumed some of them did so and it is further presumed that some names so sent reached the box.

(2) The trial judge changed the language or notice on the back of the subpoenas for jury duty.

(3) He sent to each juror a questionnaire and he assumed the examination of these questionnaires in the absence of counsel for any defendant and from this examination eliminated many prospective jurors. Just how many we do not know.

The Federal statutory provisions on this question are not complicated. Jurors are supposed to have the same qualifications and entitled to the same exemptions as jurors of the highest court in each State. (Judicial Code, Section 275.)

Jurors shall be returned from such parts of the district from time to time as the court shall direct, so as to be most favorable to an impartial trial. (Judicial Code, Section 277.)

A preceding paragraph of the Judicial Code provides for the method of drawing the jurors, namely—the Clerk and a member of the opposing political party, with the requirement that at least 300 names be in the box when the drawing is had.

In a rather late case coming up from the District Court in Texas, the regularity of a grand jury was challenged. It appeared that a deputy clerk instead of the clerk, himself, participated in the drawing of the jury from the box, although the names originally placed in the box had been placed there according to law. The court, citing cases, held that this jury was improperly drawn; that the duty of selecting the jury must be performed by the persons called upon to make the selection and that this duty cannot be delegated to any one else.

Dunn v. *United States*, 238 Fed. 508.

In a New York District Court case there was a challenge to the array of petit jurors. It seemed that the jury commission had invoked the aid of a

deputy United States attorney to give them a list of names for possible jury duty. This was done but the Commission examined the names, the qualifications and adopted the names as its own. The question presented was as to whether the Commission had a right so to do. The Court said, after pointing out it made no difference that the Jury Commission had submitted, approved and confirmed this list:

> "Such a mode of selecting jurors has never been sanctioned by legislative enactment or judicial decisions. It has frequently been condemned. Jury lists should, so far as possible, be free from suspicion or criticism. Confidence in our courts and the honest administration of the law cannot otherwise be maintained."

The opinion quotes from the Encyclopedia of Law and Procedure to the effect that Jury Commissioners must themselves make the selection; that they cannot delegate this duty, nor can they validate a delegated duty by a subsequent ratification. The Court concluded by sustaining the challenge to the array.

> *United States* v. *Murphy*, 224 Fed. 554, 560.

Although the question was not properly raised and therefore not decided, in the case of *United States* v. *Gale*, 109 U. S. 65, it is stated that if certain persons are excluded by the court from serving on the jury, the jury thus drawn will be held invalid.

In *Gulf, C. & S. F. Ry. Co.* v. *Shane*, 157 U. S. 348, the method of empaneling a jury had not been followed, the Lower Court saying: it was follow-

ing the custom, rule and practice of that court. This court pointed out that no rule or custom could override the mandatory terms of the statute, and the method of empaneling a jury in that case constituted reversible error.

In *State* v. *Newhouse*, 29 La. Ann. 824, it appeared that one Lionel Adams had furnished the Jury Commissioners a list of over two hundred names. The Jury Commissioners said they looked over and approved this list and thus did the selecting themselves. The Appellate Court held this was not proper and the practice could not be sustained. They pointed out the Commissioners could not act by proxy nor could they use deputies, saying (p. 826):

> "It is manifest that there would and could be no security for the accused against packed juries, if they be selected in this loose way. The intent of the law was that two responsible and competent men should, under the appointment of the Governor and under the sanction of an oath, select from all the voters of the parish, a list of persons to serve as jurors; that they should inspect and select from the names of all the voters, and not simply inspect and approve what might be 'a cut and dried' list of two or three hundred names. Such a system is too liable to abuse to be tolerated or sanctioned by courts charged with the lives and liberties of the citizen."
>
> *State* v. *Newhouse*, 29 La. Ann. 82[illegible]

In *Clare* v. *State*, 30 Md. 164, a case arose in which it appeared that, without a meeting of a quorum of the Judges charged with the duty of selecting jurors, one of the deputy clerks prepared a list and presented this list to the indi-

vidual judges for their approval. It was held this was prejudicial error, the Court saying (p. 174):

> "The law never contemplated that juries, to determine life, liberty, reputation and property, should be thus selected when it had specially and emphatically devolved the duty upon the Judges.
>
> Not only was there no meeting for consultation on the part of the Judges, for the selection of names of persons to compose the list, but no meeting afterwards to approve or reject what had been done by the subordinate official. When presented to each Judge separately, it was adopted without particular examination. We cannot give our sanction to such a mistaken execution of this law."

An interesting case arose in Mississippi. The law required five names from each township be put in a hat or box or other receptacle and from thence drawn by a person designated by the Judge. It appeared that the Judge wrote the names on a slip, put them in a hat, face up, and drew the names himself instead of some designated person. It likewise appeared that he knew, when drawing, what name he was going to draw. In other words, he practically selected the jury. The Court sustained a challenge to a Grand Jury so chosen, saying:

> "The action of the judge was a manifest violation of the statute in regard to the manner of drawing the grand jury, and, if his action can be justified, a grand jury may be selected in any manner that a judge might choose, and all the law on the subject of juries be swept aside. There is no law authorizing the judge to select the grand jury in the man-

ner that he did, but there is a law directing the selection of the grand jury in a different way. If he can change the method in one way, he can change it for all, and the effect would be to break down all the law on the subject."

Shepherd v. *State*, 89 Miss. 147, p. 155.

In Alabama it appeared that when a grand jury was called and not enough jurors responded the clerk should have the sheriff bring in twice as many names as it was necessary from the county. It appeared, however, that in contravention of this statute, the judge in open court directed the sheriff to summon men from the court-room to fill out the panel. In sustaining the challenge to this jury the Appellate Court said:

"If the court was correct in limiting the summoning to the by-standers in the court-room, it has an unlimited power in this respect, and would then have unlimited power and influence in the selection of the persons who were to fill deficiencies in the panel, and to serve in the capacity of grand jurors. With equal propriety, the court could have designated the particular by-standers from whom the deficiencies were to be supplied. The exercise of such a power by the court would be in violation of the spirit of all our legislation, and would convert the grand jury from a distinct, independent body, drawn and summoned by officers specially charged with that duty, into a mere dependency of the court, chosen by its absolute will."

Finley v. *The State*, 61 Ala., 201, 207.

A leading case is found in the Illinois reports. The statute of Illinois apparently did not contemplate or provide for what are known as talesmen.

It did require that when the names were exhausted additional jurors should be summoned in the same way as the others. This was not done, and although the record failed to show that the rights of the defendant were impaired or his case prejudiced, it was held that the irregularity in selecting the jury nullified the trial. It was pointed out that the defendant had the right to a jury selected in substantial accordance with the requirements of law.

Healy v. *The People*, 177 Ill. 306.

In *Hildreth* v. *City of Troy*, 101 N. Y. 234, it appeared that the trial judge had excused twelve jurors on his own motion on the ground that they were inhabitants and taxpayers of the city, although the statute expressly rendered them competent jurors. The Court said (p. 238):

> "It is we think the legal right of a party to have the jury selected from the competent names in the jury box, and that the range of selection shall not be limited by excluding without cause competent jurors from the panel."

Again the court said (p. 239):

> "The jury system, to be successfully administered, requires not only absolute impartiality in fact, in the drawing of jurors, but such an adherence to forms and methods of procedure as will insure public confidence and prevent any suspicion of improper or unfair dealing."

Under these principles we submit that it was grave error for the Clerk of the District Court to

obtain lists of prospective jurors from the County Clerks instead of making up the lists himself, and it was also grave error for the District Judge to excuse qualified jurors without the consent of the defendants.

The Court erred in its Rulings on Evidence.

(A) It is difficult to appreciate the theory upon which the witness, Osborn, was permitted to testify.

In the case of Mr. Oakman he was allowed to say what he said to Oakman during the middle of the primary:

> "I was up there in Lansing. They told me you were to receive $25,000, and at that time had $12,500, etc."

This testimony is obviously hearsay and incompetent. Oakman did not admit any such thing. He simply pointed out that it had been made clear to him it was to his interest to be for Newberry. As appears in another portion of the record this was because of the influence of his brother Bob, but the testimony was prejudicial and improper. (*id.*, p. 224.)

His alleged conversation with Paul King was equally prejudicial (*id.*, p. 224).

(B) The George Miller letters, showing the honesty of purpose, the good faith of the candidacy; the absence of any criminal intent, should have been admitted (*id.*, p. 643, *et seq.*).

(C) The so-called "Gold Star Club" correspondence with Mr. Claude Hamilton is erroneously in this record (*id.*, p. 183).

Admittedly, it was more than one year after the Primary. It is likewise obvious that the contribution to the Kent County Republican Committee could have no bearing directly or indirectly on the case at bar. What the Government claims for it has not yet been disclosed.

(D) It was error to admit in evidence the so-called Blair Report (Ex. 60, *id.* 252).

It can have no probative force whatever as against any defendant. It might be admissible in evidence as against Blair if it had been shown that he prepared it or caused it to be filed. A mere production, however, of a certified copy of this paper on the trial of men charged with a felony is certainly not enough to warrant its receipt in evidence. In the manner in which it was presented and received it was clearly error.

(E) The testimony given as to statements made by various defendants before the Grand Jury was erroneously admitted.

Primarily this involves the question as to whether such statements can be said to be freely and voluntarily given. This much-discussed question has been briefed and argued frequently. It is idle to say that when a man is subpoenaed and compelled to appear before a Grand Jury and because he is unaccompanied by counsel he is induced or persuaded to waive any rights he may have, the statement thereafter given can be called a voluntary statement and therefore can be received in evidence against him. The case apparently is one of first impression but of tremendous importance.

These various rulings, thus briefly discussed, should be considered in the light of the obvious frame of mind of the trial judge and we submit

that in the light of all that happened, these defendants did not have that fair and impartial trial guaranteed to every American citizen.

FIFTH: The judgment of conviction should be reversed and the indictment dismissed.

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Attorney for
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CHARLES E. HUGHES,
MARTIN W. LITTLETON,
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of Counsel.

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IN THE

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OCTOBER TERM, 1920.

No. 559.

TRUMAN H. NEWBERRY ET AL., PLAINTIFFS IN ERROR,

vs.

THE UNITED STATES OF AMERICA.

REPLY BRIEF FOR PLAINTIFFS IN ERROR.

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CHARLES E. HUGHES,
MARTIN W. LITTLETON,
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We submit the following memorandum in reply.

FIRST.

Statement as to the Record.

The Solicitor General calls attention to the fact that while, at the close of the trial on March 20, 1920, the District Judge allowed ninety days for the settlement of a bill of exceptions (Transcript,

pp. 955, 956), the bill was signed and filed on the ninety-first day, that is, on June 19, 1920 (*id.*).

The Solicitor General states that he "presses no contention" based upon this fact, but is content to submit the entire case and all questions raised by counsel if the court is of opinion that it can consider the bill of exceptions (Gov't Brief, p. 10).

The reason for this attitude, and the absence of any basis for a contention against the consideration of the bill of exceptions, is apparent from the facts with respect to the signing of the bill, which are set forth in the stipulation which has been made a part of the record and is quoted in the Government's brief (Transcript, pp. 1012-1013; Gov't Brief, pp. 10, 11).

It appears that the draft of the bill of exceptions was submitted to counsel for the Government on June 7, 1920, and that from that time until the presentation of the bill of exceptions to the District Judge, the opposing counsel "had been working constantly and laboriously" in the effort to agree on the context of the bill of exceptions. The actual situation with respect to the signing of the bill is thus stated in the stipulation:

> "The bill of exceptions was nearly completed on June 18, and on that date counsel for plaintiffs in error stated to the trial judge, in the presence of counsel for the Government, that the bill of exceptions would be ready for presentation on the next day, and the judge agreed to meet counsel for that purpose, and neither on June 18,

> nor when the bill was presented on the 19th was anything said by the judge or by counsel on either side, or any question raised as to whether the time within which it could be settled and filed had expired." (Transcript, pp. 1012-1013.)

Thus, the fact is that the counsel for the Government and the counsel for the plaintiffs in error appeared before the District Judge on June 18, 1920, which was within the ninety days which had been allowed by the District Judge, and that it was then arranged by agreement that counsel should appear with the bill of exceptions before the District Judge on the following day. On that day, June 19, 1920, the parties did so appear and made the formal stipulation that the bill of exceptions contained all the evidence, etc., and the bill of exceptions on that day was signed and certified by the District Judge (Transcript, p. 1013). And at that time, it may also be observed, the District Judge ruled on request of counsel for the Government as to the inclusion of the opening statement of counsel for the defense (Transcript, p. 28).

There can be no question that when the parties appeared before the District Judge on June 18, 1920, within the time originally fixed by him, it was competent for the parties to agree that the bill of exceptions should be signed on the following day, and, apart from this, it was competent for the District Judge to order that he would receive the bill of exceptions on the following day. This was

the action taken. The District Judge, on June 18, 1920, when from every point of view he had complete control of the case, agreed to meet counsel on the following day, and the matter was thus duly adjourned to that time. Counsel for the Government interposed no objection, but obviously acquiesced in the disposition that was thus made of the matter.

That counsel within the time granted for the purpose of settlement can agree to a postponement and that the bill may be settled within the time so agreed upon is well established (*Waldron v. Waldron*, 156 U. S., 361, 378; *Davis v. Patrick*, 122 U. S., 138, 143; *Michigan Insurance Bank v. Eldred*, 143 U. S., 293, 298).

That, apart from acquiescence of counsel, the District Judge may, within the time which is already allowed, extend the time and provide for the settlement on a subsequent date, despite the expiration of the term, is also clear (*Waldron v. Waldron, supra; Michigan Insurance Bank v. Eldred, supra; Chateaugay Iron Company, petitioner*, 128 U. S., 544, 556; *United States v. Breitling*, 20 How., 252, 254; *Jennings v. Philadelphia, Baltimore & Washington Ry. Co.*, 218 U. S., 255, 256, 257; *O'Connell v. United States*, 253 U. S., 142, 146, 147).

We submit the bill of exceptions was duly certified and filed.

The Government also calls attention to the statement in the stipulation that the request for instruc-

tions to the jury which were made a part of the record are included in the bill of exceptions, and that the papers appearing on pages 982-989 purporting to be requests for instructions are not a part of the record.

The errors upon which we rely with respect to refusals of requests for instructions (Main Brief, pp. 26-31) are the refusals to charge the defendants' 7th, 8th, 9th and 15th requests. These are set forth in the bill of exceptions itself (Transcript, pp. 930-932), and the fact that they are also included in the paper referred to in the stipulation (pp. 982-989) does no harm.

SECOND.

The Constitutional Question.

With apparent recognition of the difficulty of sustaining the Federal statute in question under the power to regulate "the times, places, and manner of holding elections" (Art. I, sec. 4), the Government attempts to find a basis for the statute in an asserted *inherent* power.

The argument is not only without warrant in any authoritative construction of the Constitution, but it is clearly at war with the conception of Federal power which alone made the adoption of the Constitution possible.

The people were jealous of Federal interference with their political rights. It is not enough to say that the offices were new offices which the Consti-

tution established, for it was as to these offices that it was recognized as essential, in order to secure the adoption of the Constitution, that the scope of Federal power, so far as it bore upon the political freedom of the people in their respective States, should be definitely limited.

Thus, in connection with the election of President and Vice-president, the electors were to be appointed by each State "in such manner as the Legislature thereof may direct" (Art. II, sec. 1, subd. 2).

The Constitution made provision for the election of members of the House of Representatives, but it left to each State the determination of the qualifications of voters,—"and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." As Story says: "Nor can it be said, with correctness, that Congress can, in any way, alter the rights or qualifications of voters" (1 Story on the Constitution, sec. 820). Subsequent amendments have protected against discriminations (Fifteenth and Nineteenth Amendments). Otherwise "the determination of who may exercise the suffrage" is placed "wholly within the control of the States" (Willoughby on the Constitution, sec. 237). This was manifestly for the reason that any other course would have been an affront to the opinion of the time with respect to the political liberty of the people of the States.

In the case of the Senate, the original provision

was that the two Senators from each State should be "chosen by the Legislature thereof" (Art. I, sec. 3), and the Seventeenth Amendment, providing for the popular election of Senators, followed with respect to the qualifications of electors the analogy of the provision relating to the election of the members of the House of Representatives, that is, that "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

The provision that "the times, places, and manner of holding elections for Senators and Representatives" should "be prescribed in each State by the Legislature thereof," with a reservation to Congress of the final power of regulation of these matters, was at once a recognition of an authority which the States should primarily enjoy and a definition of the precise authority which Congress should have. The general political activity of citizens, so far as it lay outside this power of regulating "the times, places, and manner of holding elections," was not intended in any way to be placed with the Federal Government. So far as government could control that activity, it was the manifest purpose of the Constitution that the control should lie with the States and not with the Federal Government.

The exception contained in this clause is highly significant. That exception is—"*except as to the Places of chusing Senators.*" As the Constitution originally stood, Senators were to be elected by

the Legislature of each State, but it was thus provided that the power of reservation which Congress was to enjoy was not in any way to be used for the purpose of determining where the Legislature of the State should sit. Thus carefully was the power of Congress defined and limited. The exception points to the content of the power to be enjoyed by Congress, and its content was, with respect to Senators, merely as to the times and manner of holding the election. The fact that the exception as to the "*place*" of the election in the case of Senators was deemed important, and was actually made, is decisive against a construction of the Constitution which would put a power in Congress generally to regulate the political activities of the people of the State in their assemblies, caucuses, conventions, etc., with regard to public discussions of candidacies or policies, or platforms, relating to the offices of Representatives and Senators where the regulation did not deal with "the times, places, and manner of holding elections" in the case of Representatives and "the times" and "manner of holding elections" in the case of Senators. The purpose of the clause was to give to Congress a definitely limited power. If it had been intended that Congress should have the broad inherent power for which the Government now contends, no exception in a matter of such a minor detail would for a moment have been considered.

No construction of the Constitution can possibly be deemed sound which gives Congress an authority over processes and political action in relation

to the choice of Representatives and Senators which cannot be found in article I, section 4. This we assume to have been the meaning of this court when, in *United States v. Gradwell*, 243 U. S., 476, 481, 482, this court said that the power of Congress to deal with the election of Senators and Representatives "is derived from § 4, article I, of the Constitution."

When the Constitution was adopted, the view was prevalent, not that Congress had inherent power to regulate the election of Representatives and Senators outside of the power conferred by article I, section 4, but that despite its limitations, this clause gave Congress *too much power*. The defense of article I, section 4, was rested upon the two grounds, *first*, that the ultimate power of regulation in Congress, to the extent conferred, was necessary for the protection and preservation of the Federal Government, and, *second*, that the regulation of Congress with respect to the election of Representatives and Senators could only go to the extent of the power conferred in article I, section 4, and that this quantum of power would not constitute an improper interference with the political freedom of the people of the several States.

As Justice Story says, the clause (article I, section 4) does not appear to have attracted much attention or to have encountered much opposition in the constitutional convention, so far as may be gathered from the journal of that body. But "it

was afterwards assailed by the opponents of the Constitution, both in and out of the State conventions, with uncommon zeal and virulence." Of course, this objection was not to the power of the State legislatures with respect to the times, places, and manner of holding elections, but, as Justice Story says, was "to the superintending power of Congress to make or alter such regulations" (1 Story on the Constitution, sec. 815).

Let it be noted what the ground of this objection was, as stated by Justice Story. He continues: "It was said that *such a superintending power would be dangerous to the liberties of the people, and to a just exercise of their privileges in elections*" (*id.*). Certainly, the offices were new, and they were Federal offices; but this did not change the tenacity of the purpose of the people in the several States that they should maintain their proper measure of political liberty with respect to all offices. It was because of this, as we have said, that the Constitution expressly reserved to the people of the States the determination of the qualifications of voters and expressly limited the superintending power of Congress with respect to the regulation of elections to "times, places, and manner of holding elections." And even with this limitation there was sharp objection, and such power given to Congress was attacked as an infringement of political liberty.

Imagine, then, an attempt to secure the adoption of the Constitution in the view that Congress, outside of the explicit power stated, had an inher-

ent power to control political action, or nominating processes, to prescribe what meetings could be had, what circulars distributed, what moneys expended, and how far the people could exercise their right in the selection of candidates or the conduct of their campaigns. It is not too much to say, in the light of the history of the period and of the state of opinion with respect to political liberty, that if the Constitution had been deemed to give to Congress such power as that for which the Government now contends, it would never have been adopted.

The discussion of Justice Story goes on to show how it was that the objection to the power conferred by article I, section 4, was deemed to be inconsistent with political liberty. It was urged that Congress might prescribe the *times* of elections unreasonably, so as to prevent the attendance of electors; that Congress might contrive the *manner of holding* elections so as to exclude all but their own favorites from office. There were, as Story says, "other suggestions of a similar nature, calculated to spread terror and alarm among the people," which were dwelt upon with "peculiar emphasis" (*id.*).

These contentions against the clause as proposed met with a ready answer. But this answer was that the clause was *confined* to the regulation of the "times, places, and manner of holding elections," and that, with respect to Senators, there was an express exception so as in no way to permit control

by Congress of the place where the Legislat
should sit. The regulation, as thus limited w
respect to times, places, and manner of hold
elections, was simply the confiding of a powe
Congress as to the "election" *itself*, which it
necessary for the Federal Government to have
order to secure its own perpetuation. In this vi
the objections to this necessary power were fo
to be without merit, as Justice Story explains
considerable length (*id.*, secs. 816-828).

But we are not left to inference, or to subsequ
exposition even by the learned commentator,
order to determine what was conceived to be
limitations of the power in question at the time
Constitution was adopted.

In the attack upon this clause, which, as Just
Story says, was of "uncommon zeal and virulenc
the great protagonist for the Constitution w
Alexander Hamilton. It cannot be for a mome
supposed that Hamilton would not give and did
give—with his conception of the importance of
tional power—the full authority to Congress wi
respect to elections of Senators and Represen
tives which it was the purpose of the Constituti
to bestow. And we find in Hamilton's discussi
of this subject a distinct representation, made
him in the Federalist, as to what was the purpo
of the provision of article I, section 4, and the e
relative extent of the power thus secured by C
gress.

Hamilton, after reviewing the objection and

fending the clause in question as against the assertions of a broader power in Congress, thus stated the conclusion:

> "Its authority" (that is, the authority of the national Government) "would be expressly restricted to the regulation of the *times*, the *places*, and *manner* of elections" (Italics, Hamilton's: The Federalist, LX).

Either the power asserted in the Federal statute under consideration is embraced in the power conferred by article I, section 4, or it is not. The argument which the Government raises—that is, the argument of inherent power—proceeds on the assumption that it is not so embraced. On this assumption, the activity sought to be regulated is not within the clause as to "times, places, and manner of holding elections." So conceived, as an activity *ex hypothesi* outside of the subject of the power conferred, it is simply a part of the political liberty of the people of the respective States, and the argument of the Government on this point is as clearly opposed to the doctrine which underlay the formulation and the adoption of the Constitution as any argument could possibly be.

The Government, elaborating the same view, seeks to support its contention by urging that the construction which would deny to the Federal Government the power to regulate "nominating processes" would deny that power to the States as well.

and hence, as from the standpoint of the Government's contention the power must reside somewhere, it must be deemed to reside in the Federal Government.

This sort of argumentation has already been presented to this court and refuted. The doctrine that a power must be deemed to inhere in the Federal Government, as incident to its national character, upon the assertion that it is a power which it is important to exercise from a Federal standpoint and one that cannot be exercised by the States, is a doctrine without the slightest foundation in our constitutional law. As we think, in the light of a true constitutional interpretation, there is no difficulty with the exercise of power by the States in relation to the subject in question, but the assumption of the Government to the contrary does not avail to raise a power in Congress when the Constitution does not confer it; in other words, the mere absence of power in the States, although the subject be one of national concern, does not serve to create—as the Government would have it—an inherent power in Congress. The argument of the Government loses sight of the fact that powers not conferred are retained; they may be reserved to the States or they may be retained by the people.

The subject was thus disposed of in relation to the reclamation of arid lands, asserted by the Government to be of most serious national concern, in the case of *Kansas v. Colorado*, 206 U. S., 46. There it was found that the grant of power to the

United States of control over its property did not go to the extent asserted by the Government, and the court continued (*id.*, pp. 89-91):

> "Appreciating the force of this, counsel for the Government relies upon 'the doctrine of sovereign and inherent power.' * * * His argument runs substantially along this line: All legislative power must be vested in either the State or the National Government; no legislative powers belong to a State government other than those which affect solely the internal affairs of that State; consequently all powers which are national in their scope must be found vested in the Congress of the United States. But the proposition that there are legislative powers affecting the Nation as a whole which belong to, although not expressed in the grant of powers, is in direct conflict with the doctrine that this is a government of enumerated powers. That this is such a government clearly appears from the Constitution, independently of the amendments, for otherwise there would be an instrument granting certain specified things made operative to grant other and distinct things. This natural construction of the original body of the Constitution is made absolutely certain by the Tenth Amendment. This amendment, which was seemingly adopted with prescience of just such contention as the present, disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With

equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if in the future further powers seemed necessary they should be granted by the people in the manner they had provided for amending that act. It reads: 'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.' The argument of counsel ignores the principal factor in this article, to wit, 'the people.' Its principal purpose was not the distribution of power between the United States and the States, but a reservation to the people of all powers not granted. The preamble of the Constitution declares who framed it, 'we the people of the United States,' not the people of one State, but the people of all the States, and article X reserves to the people of all the States the powers not delegated to the United States. The powers affecting the internal affairs of the States not granted to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, and all powers of a national character which are not delegated to the National Government by the Constitution are reserved to the people of the United States. The people who adopted the Constitution knew that in the nature of things they could not foresee all the questions which might arise in the future, all the circumstances which might call for the exercise of further national powers than those granted to the United States,

> and after making provision for an amendment to the Constitution by which any needed additional powers would be granted, they reserved to themselves all powers not so delegated. This article X is not to be shorn of its meaning by any narrow or technical construction, but is to be considered fairly and liberally so as to give effect to its scope and meaning."

The "widespread fear," to which the court referred, certainly existed as to all matters affecting political liberty. That was the subject as to which the people at the time of the adoption of the Constitution were most sensitive and were most careful with respect to any grant of power. And certainly by the reservation of the Tenth Amendment as the opinion of this court clearly points out, they meant that if it were found in the future that any additional national powers were required, which bore upon political liberty, those powers should be conferred by appropriate amendment. The argument of the Government is entirely unsound, that if the power sought here to be exercised lies outside the scope of the terms of the Constitution, it should be sustained as an inherent power merely because the subject is deemed to be one of national concern or one that might be deemed not to be confided to the control of the States. The argument is a plain *non sequitur*.

But we see no reason for the conclusion, which the Government makes a premise, that the power does not exist in the States with respect to the subject-matter in question. The reservation to the people of the States very appropriately would be taken to embrace those matters with respect to their own political activity, the conduct of campaigns and all matters which affected the exercise of their political rights, except as these were subject, by the terms of the Federal Constitution, to the supervising power of Congress. Here, again, we note that the qualifications of electors, although with respect to the filling of the offices of Representative and Senator, were left within the control of the States. In the case of Senators, the Legislature in each State was to choose the Senators and the whole matter of the convening of the Legislature which was to have this right of choice, and the selection of legislators was left to the States. And in the case of the offices of President and Vice-president, it was for the State Legislature to determine how the electors from the State were to be chosen. Thus there is ample basis for the conclusion that except as the Congress had the power to regulate "the times, places, and manner of holding elections" the control of political activity remained with the people of the State and, so far as government could exert power over the subject not confided to the regulating power of Congress, that power rested in and was reserved to the States.

The provision of the first clause of article I, section 4, that "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature" was merely for the purpose of assuring to the States and confirming in the States the power described and was obviously introduced to quell the fear that otherwise the States would not enjoy this power, and also to express the idea then entertained—and correctly so, as subsequent history of many years proved—that the States would exercise the power, that Congress would probably have little occasion to exercise any supervisory power of regulation, and that what power Congress might exercise would be confined to the matters stated. The true construction of the two clauses of article I, section 4, in the light of history, it seems to us, is that they have distinct purposes. The first clause was not intended as a restriction upon the States as to appropriate regulation of political activity, aside from the matter of the "times, places, and manner of holding elections," but to assure to the State that, unless Congress intervened, the regulation of the times, places, and manner of holding elections would lie with the States, while the second clause was for the purpose of reserving a power to Congress to the extent stated, and *only* to the extent stated, as Mr. Hamilton definitely showed. The control of the political activity of citizens, aside from the matters which related directly to the times, places,

and manner of holding elections, was intended to rest where it always had rested, with the political communities in which these citizens resided.

We come back then to the question which, so far as the constitutional validity of the Federal statute is concerned, is the only matter really before the court. That is the question whether the regulation and control of the nominating process is embraced within the power of Congress as defined in article I, section 4, which was to regulate "the times, places, and manner of holding elections for Senators and Representatives."

With respect to this branch of the argument, we find nothing in the Government's brief which requires any extended comment, and we are content to leave the case in this aspect as presented in our main brief.

We do not see how it is possible to say that the power given to Congress under article I, section 4, relates to anything else but "*elections.*" The election is the choice of persons for public office. The clause itself refers to "elections *for* Senators and Representatives." The election is the taking of the vote for the persons who are to fill, when chosen, the public office in question.

That this is the meaning of the word "elections" is shown by the context. The "*time*" of the election means the time when the choice of the public

officer is made. The "place" means the place where that election is held. "The manner of holding" refers to the manner of holding the *election to* determine that choice. The exception as to Senators with respect to the "places of choosing" emphasizes the point.

As we have already observed in our main brief, the word "*elections*" as used in article I, section 4, had just as definite meaning at the time of the adoption of the Constitution as the word "Legislatures" as used in article V (*Hawke v. Smith*, No. 1, 253 U. S., 221).

The words "*times*," "*places*," and "*manner of holding*" relate to, but do not extend, the subject to which they refer, to wit, "*elections*."

The notion that this power embraces activities which are not a part of the "election"—that is to say, "nominating processes," or the activities of *caucuses*, *conventions*, *primaries*, and *campaigns*—is to give a power relating to the political activity of the people which was foreign to the purpose of the prescribed power, which was merely to insure protection to the voter at the election and the proper supervision of the taking, registering, and canvassing of the vote itself. Of course, registration is nothing but the listing of those who under the laws of the State are qualified voters so as to assure that only qualified voters will cast their votes. This is a listing directly related to the casting of the vote. Protection to the voter, under the authorities cited by the Government, is

protection to him in casting his vote for the public officer. The "*manner of holding*" the election is not the manner of nominating candidates. The "manner of holding" is the manner of holding "*elections.*" And this is apart from any nominating processes. No nominating process is necessary to the election. No particular nominating machinery need be used. It does not lie with Congress to prescribe that any particular nominating process shall be used. Nor does it lie with Congress to curtail the political activities of the citizens of the State with respect to such nominating process as they may desire to use. The time for the exercise of the power conferred upon Congress is when the qualified electors come to register their choice at the election. To find, as we think it must be found, that the regulating power of Congress is limited as provided in article I, section 4, and then to extend that power so as to cover political activities that are not a part of the election described, is at once to announce a principle of construction essential in determining the scope of the power and then to ignore the principle in its application.

In its effort to bring nominating processes within the term "elections" as used in article I, section 4, the Government finds itself forced to make the extraordinary contention that "*if there be but one candidate, there is no election*" (Govt. Brief, p. 117). This is a new discovery in American politics. We could easily point to distinguished ju-

dicial officers in our States who have been elected without opposition because of the excellence of their judicial records. No one has hitherto suggested that there was no election, because there was only one candidate for the office. The Government makes this remarkable contention because of its endeavor to bring nominating processes—that is, processes relating merely to candidacies—within the scope of the clause relating to the times, places, and manner of holding elections. Of course, from the standpoint of the election, no nominating process is essential, and, from this standpoint, there is no need of nominations or of rival candidacies. All that is necessary is that at an appointed time and place qualified voters shall register their choice. The nominating caucus, convention, or primary is *not* a part of the *election*. Whether there have been any preceding nominations, or how many there may be, has nothing to do with the matter of the registration of the voters' choice for the public offices—that is, the election, the time, place, and manner of holding, which is the subject-matter of control.

Finally, the Government, in what seems to us to be a futile effort to distinguish the reasoning of the State decisions to which we have referred in our principal brief, comes to its conclusion that this court should give a "*liberal construction*" to the word "elections."

The suggestion itself is most significant. The Government, in making it, evidently feels the need

of a "liberal construction," and the argument is virtually a confession that the word "elections," as used in article I, section 4, and as it was understood and explained at the time of the adoption of the Constitution, did not cover the political activities sought to be reached by the Federal statute in this case; that elections, as the term must be interpreted in the light of history and as the term was understood when it was used in the Constitution, does not cover what is sought here to be reached; and hence this court is now asked to stretch the Constitution, to make a new Constitution, to assert a power to amend the Constitution in order to support this law. The "liberal construction" which the Government asks is the construction which extends the constitutional provision beyond its possible meaning. The argument is precisely that which was addressed to the court in *Hawke v. Smith*, *supra*, and the reasoning used in the opinion in that case is its sufficient refutation.

THIRD.

The Construction of the Statute.

To sustain the conviction, the Government is compelled to essay the task of defending the construction of the statute with the breadth assigned to it by the District Judge in his instructions to the jury.

The Government, indeed, makes the unwarranted suggestion that if the issue had been whether Mr.

Newberry himself had furnished from his own means for campaign purposes a sum in excess of the amount allowed by law, there was sufficient evidence to take the case to the jury. We say that this is an unwarranted suggestion, *first*, because what the Government says in its brief discussion of the point (Govt. Brief, pp. 62-64) is sufficient to show that it relies simply upon surmise and conjecture and had no proof which could properly have been submitted to the jury upon any such theory; and, *second*, because, if there had been any such evidence, the question would be immaterial here, since the jury would have been entitled to consider the evidence, upon such a hypothesis, only under due instructions by the court as to the proper and necessary limitations of the statute.

We repeat that there is no proof that Mr. Newberry contributed one dollar to procure either his nomination or election. We submit that no one can impartially review this record and escape the conclusion that Mr. Newberry and his co-defendants were convicted solely because of the charge given by the District Judge, and that this charge involved a serious misconstruction of the statute which made it embrace conduct to which it was never directed and under which an innocent and honorable man has been adjudged guilty of crime.

We need not again review the instructions given by the District Judge to the jury and the requests to charge which were refused (Main Brief for

Plaintiffs in Error, pp. 68-69; Specification of Errors, *id.*, pp. 27-34.)

There can be no controversy as to the sweep of the statute as construed by the District Judge, for the asserted scope is apparent, not only from the language of the instructions, but from the Government's brief in their defense.

The Government starts with the proposition, as though it were laying a basis for its conclusion, that "the candidacy of Commander Newberry was launched with the distinct understanding and agreement between him and other of the plaintiffs in error that a fund of not less than $50,000 was to be raised and used for the purpose of securing his nomination and election" (Govt. Brief, pp. 41-43).

It cannot be disputed, and we do not understand that the Government attempts to dispute, that all the contributions made and all moneys expended for Mr. Newberry's campaign were voluntarily contributed by friends and supporters of Mr. Newberry. These were moneys which, without question, these friends and supporters of Mr. Newberry were entitled to expend through a committee or otherwise, for the purposes for which they were expended, unless the statute in question relating to the candidate applies to such contributions. There can be no successful attempt to challenge the legality of the purposes for which the moneys were expended; this was not the object of the prosecution, and the case was not submitted to the jury upon any such point. It is therefore necessary to as-

sume, as we understand the Government to assume, the legality of the expenditures which is not in issue here (Govt. Brief, p. 47).

The effort of the Government, then, as we have urged, is *to apply the statute to these expenditures of moneys voluntarily contributed by others than Mr. Newberry, and expended for legal purposes, in connection with his campaign.*

The Government says that it was recognized as necessary that if Mr. Newberry became a candidate steps should be taken to make the voters of Michigan acquainted with him. Mr. Newberry had explained that he was on duty in New York, as an officer of the Navy, and hence could not go to Michigan for the usual activities of a candidate in making a personal canvass of the State.

The organization effected in support of Mr. Newberry's candidacy was an organization of his supporters. The Government says that Mr. Newberry's supporters reached the conclusion that "the campaign which would be necessary would cost at least $50,000," and that all knew that Mr. Newberry "could not contribute any such sum without violating the law." Hence, urges the Government,

> "It is perfectly clear that Newberry would not have been a candidate if it had not been arranged to raise and expend at least $50,000 to secure his nomination and election. It is entirely fair therefore to say that he became a candidate on condition and with the distinct understanding and agreement that the

> money necessary to conduct a campaign costing at least $30,000 would be contributed and used." (Govt. Brief, p. 11).

The Government says $30,000, but its point would be just as valid if it had said $4,000, or any amount in excess of $3,750, the limit for a candidate's personal expenditures in Michigan, to which, as we have said, the Federal statute refers.

The point of the Government, then, is that if one proposed as a candidate for Senator in Michigan knows that it is idle to enter upon a political contest for the nomination and election unless more than $3,750 is expended for lawful purposes of publicity in connection with his campaign, and becomes a candidate because he is assured and with the understanding that his friends and supporters will raise the amount necessary to conduct a campaign, then if he does enter upon the campaign and his supporters give and expend more than $3,750 in those circumstances for purposes otherwise lawful, he and his supporters become engaged in a criminal conspiracy.

Broad as this statement is, the Government is not entitled to the benefit of it, as the case was submitted by the District Judge to the jury upon instructions even broader, as we shall presently show. But the construction which the Government suggests is a wide departure from the statute. The statute, it may be confidently said, was never intended to prevent a candidate from having a reasonable assurance that legitimate expenses

would be properly met by voluntary contributions of his supporters. The statute was not intended to make it impossible for a poor man to run for office—one who could not contribute himself and who could not receive assurance that if he did run the expenses of his campaign would be met by those who thought him to be a desirable candidate. It is a futile effort to take this statute, which relates to what the candidate gives and expends and what he causes to be given and expended, and construe it so as to cover moneys which others voluntarily contribute and expend. As we have pointed out in our main brief, the words in the statute, "cause to be given, contributed, expended," etc., cannot be taken to refer to expenses made by a committee of the moneys voluntarily contributed by the supporters of a candidate (Main Brief, pp. 77-85). And the fact that the candidate enters upon the campaign assured of such voluntary support in no way affects his right or the rights of his voluntary supporters. The statute was enacted *ultra vires*. The object of the statute was quite distinct from this, and that plainly appears from the limit which, both in its own proviso and in its reference to the State statute, referred only to the amount which the candidate himself could give or expend.

The Government endeavors to base its construction upon the provisions of the statute with respect to the reports or statements required to be filed by the candidate. It will be observed that the original statute (Act of June 25, 1910, c. 382;

36 Stat., 822) provided for giving publicity to the receipts and expenditures of "political committees" as defined. The act stated that the term "political committee" as therein used should include "the national committees of all parties and the national congressional campaign committees of all political parties," and all committees, associations, or organizations which shall in two or more States influence the result or attempt to influence the result of an election at which Representatives in Congress are to be elected (*id.*, sec. 1).

It will be noted that this language was limited so that it did not embrace a committee operating simply in one State. Of course, such a political committee operating only in one State was none the less a political committee in the broad sense, and it was none the less a committee operating legitimately because Congress did not see fit to include it within the scope of the statute in question. The amending statute of August 19, 1911 (37 Stat., 25), contained further provisions as to the reports of political committees, but it did not change the description of the "political committees" to which the statute applied. Accordingly, a political committee like the one in question and operating in a single State as a committee lay outside the purview of the statute.

These being the provisions as to political committees, the amending statute of August 19, 1911, inserted the provisions relating to a "candidate" for Representative or Senator (37 Stat., 26-29).

This statute requires that the candidate should file, as stated, a statement of his receipts and expenditures for the purpose of procuring his nomination or election; that is, this applies both to primaries and a general or special election for Representative or Senator. The language is substantially the same with respect to candidates for Representatives and Senator—that is, that there shall be filed

> "a full, correct and itemized statement of all moneys and things of value received by him or by any one for him with his knowledge and consent, from any source, in aid or support of his candidacy, together with the names of all those who have furnished the same in whole or in part; and such statement shall contain a true and itemized account of all moneys and things of value given, contributed, expended, used, or promised by such candidate or by his agent, representative, or other person for and in his behalf with his knowledge and consent, together with the names of all those to whom any and all such gifts, contributions, payments, or promises were made for the purpose of procuring his nomination or election."

Then follows (after provisions relating to statements of promises or pledges and after certain prohibitions of promises or pledges) the provision here in question limiting the contributions of candidates. (This is quoted in the Main Brief for Plaintiffs in Error, p. 5).

The provisions relating to the filing of statements by candidates plainly were not intended to embrace the receipts and expenditures of political committees performing the usual functions of such committees. This is apparent from the fact that the amending statute, in its provisions relating to the candidate, refers not only to primaries, but also in the same clause to a general or special election, and Congress had already provided, so far as it had seen fit to provide, for the filing of statements by political committees of the amounts received and expended by them. Thus, manifestly, if a party committee, as for example, a national congressional committee, had receipts and disbursements in connection with the election of a Representative in Congress, it was not intended by the provision relating to candidates, which covered the election as well as the primary, that the candidate should report the receipts and disbursements of the committee. The political committee from the standpoint of the statute, plainly was not deemed to receive and disburse on the candidate's behalf when it was acting as a political committee receiving voluntary contributions from others and disbursing them in support of the candidate. The same reasoning which applies to the committee of a political party, or to a national congressional committee, obviously applies equally to the other political committees which are embraced within the purview of the statute—that is, to political committees operating in two or more States. And the function of a political committee

that is not included within the terms of the statute is in no way affected by its exclusion. The candidate is not put to any different degree of duty with respect to a political committee, acting as such, that operates in two or more States than he is under with respect to the operations of a political committee acting in one State. Congress has defined the political committees which are within the purview of the statute so far as it relates to political committees, and the provisions of the statute with respect to the candidate are plainly not intended to refer to the transactions of political committees acting as such.

The argument, therefore, upon which the Government lays stress, that the language of the statute with respect to statements to be filed by candidates is "of all moneys and things of value given, contributed, expended, used or promised by such candidate, or by his agent, representative, *or other person for and in his behalf with his knowledge and consent*;" proves altogether too much. For the language "or other person for and in his behalf with his knowledge and consent" cannot for a moment be taken to have the breadth which the Government assigns to it. This language must be read in the light of the context: *noscitur a sociis*, "agent, representative or other person for and in his behalf." This cannot be taken to refer to voluntary contributions made by others than the candidate which are received and expended by a political committee in the ordinary way.

Congress was perfectly familiar with the distinction between the voluntary contributions received by a political committee and the moneys expended by a political committee, and those receipts and expenditures that were had and made by the candidate himself or by his agent or on his behalf.

A political committee is a familiar instrumentality by which political parties or groups of supporters of candidates secure the effective conduct of a political campaign. It is the agency of the *supporters* of the candidate and not the candidate himself. It may receive a contribution from the candidate or it may not. It solicits and receives contributions from others than the candidate who desire to support him and expends the moneys thus received for such purposes as the law permits in aid of the campaign. It is an utter misnomer to speak of a political committee, representing the supporters of a candidate and furnished voluntarily with funds by such supporters, which it disburses for legitimate purposes, as an agency of the candidate in the sense that he is the *principal in law* with respect to the committee. He is its *candidate*, not its principal. The act of Congress was not intended to change normal political relations. It provided for publicity and it imposed restrictions, but it left political activities, so far as their essential nature was concerned, where it found them. The effort, so assiduously made in this case, to convert a political committee organized by Mr. Newberry's supporters, and furnished with funds

by them and not by him, which were expended for purposes otherwise lawful, into his agency so as to bring him and his supporters within interdiction of the statute, is, we submit, a complete perversion of its purpose.

The fact that the candidate, as is perfectly natural and ordinarily occurs, is advised that a political committee is organized in his support, or that he is assured that this political committee will have sufficient strength and ability and funds voluntarily furnished by supporters, and that the candidacy will not be ridiculous or futile, in no way changes the candidate's relation to the committee. The whole case thus endeavored to be built up by the Government, through its treatment of the provisions as to statements required of candidates, falls to the ground.

Further, from any point of view, the provisions as to the filing of statements are quite distinct from the provision limiting the candidate's gifts and expenditures.

The argument of the Government virtually is that all political committees that act with the knowledge and consent of the candidate in obtaining contributions and in making expenditures become his agents and representatives or persons acting in his behalf within the meaning of the statute, so that he is required to make reports of all contributions received by such committees and of the expenditures made by them, if he knows of them and does not object to them, so that he may

be taken to consent. Then, having laid down this premise, the Government next treats all such gifts and expenditures as having been made by the candidate or as having been *caused* to be made by the candidate, so as to bring him under the penal provisions of the subsequent clause. This interesting and extraordinary process of reasoning is developed out of the words "cause to be given, contributed, expended," etc., as used in the clause defining the limit of the candidate's contributions—a limit which by its own terms only relates to what the candidate himself may give or expend.

The full purpose of the statute is satisfied when the candidate is held responsible for what he does; that is, what he gives or expends, or has given and expended in such a way by his agents or on his behalf that he in truth is the one who gives and expends—one who is not permitted to cover up his real gifts and expenditures by any subterfuge or the introduction of other persons who in that sense act on his behalf. But the statute has no application to the case of a political committee, or of voluntary contributions made to a political committee, organized to support the candidate and which expends moneys thus voluntarily contributed for legitimate purposes and makes due report of them according to the statutes applicable to their operations.

But, as we have said, the construction thus advanced by the Government, broad as it is, is still not as broad as the construction which the District

Judge placed upon the statute and by which the conviction of these plaintiffs in error was obtained.

The Government therefore is under the necessity of sustaining *that* construction, and this the Government endeavors to do. But, when the Government undertakes to defend the correctness of the charge given by the District Judge, it apparently finds itself unable to say anything more than to assert that the instruction was correct. It advances no reasons to support this assertion (Govt. Brief, Point V, pp. 57-62).

We need refer only briefly to what was said in the instructions of the District Judge.

Take the following:

> "This prohibition extends to the expenditure and use of excessive sums of money in which the candidate actively participates or *assists, or advises*, or directs, or induces, or procures. * * * But it is sufficient to constitute a violation of this statute if the candidate actively participates *in doing the things which occasion such expenditures* and use of money and so actively participates with knowledge that the money is being expended and used.
>
> "To apply these rules to this case: If you are satisfied from the evidence that the defendant, Truman H. Newberry at or about the time that he became a candidate for United States Senator was informed and knew that his campaign for the nomination and election would require the expenditure and use of more money than is permitted by

> law and with such knowledge became a candidate, and thereafter by *advice*, by *conduct*, by his *acts*, by his direction, by his *counsel*, or by his procurement he actively participated and took part in the expenditure and use of an excessive sum of money, of an unlawful sum of money, you will be warranted in finding that he did violate this statute known as the Corrupt Practices Act" (italics ours; Transcript, pp. 940, 941).

Thus the District Judge, having already charged that the limit in question was $3,750 (*id.*), told the jury that the prohibition extended to the use of moneys in excess of this limit, as fixed for the candidate's personal expenditures, in case the candidate "*assists*" or "*advises*" or takes part in the expenditure by *advice*, *conduct*, *acts* or *counsel*.

The Government states that the candidate cannot treat as personal expenses of the sort which are excepted by the *proviso* of the Federal statute such expenditures as the employment of clerks, the renting of offices for headquarters, the hiring of halls for public meetings, or even the cost of printed matter published in the newspapers, such as announcements and advertisements. But as to all these ordinary and necessary campaign expenditures there is no limit upon the amount except with respect to the expenditures made by the candidate. It was for exceeding this limit, and this limit alone, that this prosecution and conviction were had. But as Mr. Newberry himself contributed and expended nothing, all the moneys said to

have been expended in excess of the limit were the expenditures of the political committee organized by his supporters and furnished by them with funds which were used for legitimate purposes. The District Judge instructed the jury that if this use by this committee of sums contributed by his supporters and thus expended was in excess of $3,750 Mr. Newberry and the other plaintiffs in error were guilty of a criminal conspiracy if Mr. Newberry by his advice or assistance or counsel participated in the expenditure of these sums, or, as the Government says, took part in doing the things which occasioned the expenditure. It is idle to attempt to excuse such instructions by reference to a statement of the District Judge that mere knowledge of such expenditure or mere acquiescence was not enough, when the District Judge told the jury that it was sufficient to constitute a violation of the statute "if the candidate actively participates in doing the things which occasion such expenditures and use of money and so actively participates with knowledge that the money is being expended and used" (Transcript, pp. 940-941).

The Government attempts a very fine distinction. The Government says that it would be permissible, under this construction, for the voters or the friends of a candidate in a particular town to hire a hall and invite him to speak in it; that this would be permissible because he would not actively participate in the hiring of the hall or

in occasioning the expenditure, and at most would be merely accessory in it (Govt. Brief, p. 44). The implication of the carefully worded concession, and the direct purport of the instruction given by the District Judge, however, was that if a political committee having the campaign in charge hired halls in order that the candidate might speak in them, and such hiring involved an expenditure of more than the amount which the candidate could personally lay out, if the candidate counseled or advised this course or entered upon his candidacy with the understanding that such halls would be hired, and he then spoke in them and thus participated in doing the things which occasioned the expenditure, he would enter into a criminal conspiracy, although the moneys were voluntarily contributed by others than the candidate and were used in an entirely lawful manner. The Government says that the candidate under the proviso of the Federal statute can use the mails. But, in the view urged by the Government the political committee that is running his campaign cannot use the mails to circulate his speeches if the expenditure would exceed what he himself could expend personally, and if he advised or assisted or counseled the committee to take this course in order that publicity might be given to his utterances.

We have said before, and we repeat, that this is a perversion of the statute. The Government endeavors to distinguish between the matters for

which the candidate by the *proviso* in the Federal statute is permitted to expend money without reference to the fixed limit—that is, for personal travelling expenses, postage, telegrams, etc.—and what the Government calls, with apparent effort to stigmatize, "*paid propaganda.*" But what constitutes what the Government thus describes as "paid propaganda"? The answer must be these public statements of policy and arguments in support of candidacies which it is entirely legitimate for the supporters of a candidate to publish and circulate. There is no restriction placed upon their activity with respect to these. It is none the less entirely legitimate because of the characterization which the Government adopts in its argument. The question still remains whether this statute was intended to limit the expenditure of sums which are voluntarily contributed by the supporters of the candidate, and not by the candidate directly or indirectly—that is, by himself or by anyone on his behalf in the sense that they are in reality his contributions or expenditures. And if it was not so intended, and it seems to be clear that it should not be so construed, then upon what ground can it be said that the amounts thus lawfully contributed and used by the supporters of the candidate come within the intent of the statute merely because the candidate in the course of his campaign may advise or assist or take part in the doing of the things which occasion the expenditures in his support?

The Government is forced to concede that "there are no prohibitions in the act directed against the individual citizen or voter and no penalties imposed for anything he may do." The Government admits that the individual citizen "is entirely free, so far as this Act is concerned, to do anything he chooses to promote the election of any candidate whom he desires to support" (Govt. Brief, p. 73). This necessary concession is destructive of the Government's position, for the act in its application to the candidate, while intended to apply to what he does directly or indirectly, was not intended to limit the freedom of his supporters. In this case, Mr. Newberry's supporters did only what they had a perfect right to do and in no possible conception of the law of conspiracy was there any basis for holding that any criminal conspiracy existed in this case. All parties acted within their rights.

Another point may be noted. The Government seems to contend (Govt. Brief, p. 67) that the clause in the Federal statute, "cause to be given, contributed, expended, used or promised," with the meaning assigned to it by the Government, should be read into the proviso fixing the Federal limit of $5,000 for Representatives and $10,000 for Senators. This would be a novel method of construing a penal statute. It is sufficient to quote the proviso:

> "*Provided*, That no candidate for Representative in Congress shall give, contribute,

> expend, use, or promise any sum, in the aggregate, exceeding five thousand dollars in any campaign for his nomination and election; and no candidate for Senator of the United States shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding ten thousand dollars in any campaign for his nomination and election." (Sec. 37 Stat., 28; Main Brief for Plaintiffs in Error, p. 5.)

This obviously means exactly what it says. No one could be convicted for exceeding the limit fixed in this proviso unless he did give, contribute, expend, use, or promise an amount in excess of this stated limit.

The effect to be given to the words in the clause which precedes the proviso—"cause to be given, contributed, expended, used, or promised"—seems to us to be exactly the opposite of that for which the Government contends. For the *proviso* itself shows, in fixing the limit, that the purpose of the words "cause to be given, contributed, expended," etc., was not to take the case outside of what the candidate himself really did.

Moreover, the reference in the Federal act to the State statute, as providing a limit which must not be exceeded, is also to the amount "which he (the candidate) may lawfully give, contribute, expend, or promise under the laws of the State in which he resides." Here the reference obviously is to what the candidate personally does, not to the gifts

of his supporters or the expenditure of the moneys which his supporters supply. And it may well be said that, as the reference here is to the limit under the State law, the preceding words, "cause to be given, contributed, expended," etc., refer to what the candidate could cause to be given, contributed, or expended within the limits of the State law. It cannot be denied that under the law of Michigan the limit is simply what the candidate personally gives or expends, and that any political committee, with regard to the moneys it raises and expends for the permitted purposes as stated in the State statute itself, is not under any limitation whatever.

A word may also be said with respect to the attempt to answer the argument based upon the explicit provision of the Federal statute that, to constitute a violation, the act must be "*wilful*." The Government says that it is not necessary in alleging a conspiracy to aver the offense with the same particularity as if the defendants were indicted for a commission of the subsequent offense. But if the offense is only committed when the conduct is "wilful," it is necessary for the Government in its indictment to charge the facts showing a wilful violation. This is not at all changed by the fact that the charge is a conspiracy to commit the offense under section 37 of the Criminal Code. (See *Pettibone v. United States*, 148 U. S., 197.) The Government's attempted answer virtually is that ignor-

ance of the law does not excuse. But the question remains what the law is. If the law itself requires *wilful* violation, which in this case means a consciousness of the violation amounting to bad faith, then the condition precedent cannot be avoided by imputing bad faith when there is no evidence of it. The ruling in this case by the District Judge was that the question of the good faith of the defendants was not involved (Main Brief for Plaintiffs in Error, pp. 86 *et seq.*), although it was quite apparent that Mr. Newberry had no notion that he was violating any law, or that the law applied to the amounts expended by the Committee or his supporters, and although this committee was sedulous to keep within all the requirements of the Michigan law to which the Federal statute referred and which they supposed to be the chart of their conduct.

With respect to the other points involved in the case, we submit the matter upon what is said in our principal brief.

Respectfully submitted,

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No. 559.

In the Supreme Court of the United States.

OCTOBER TERM, 1923.

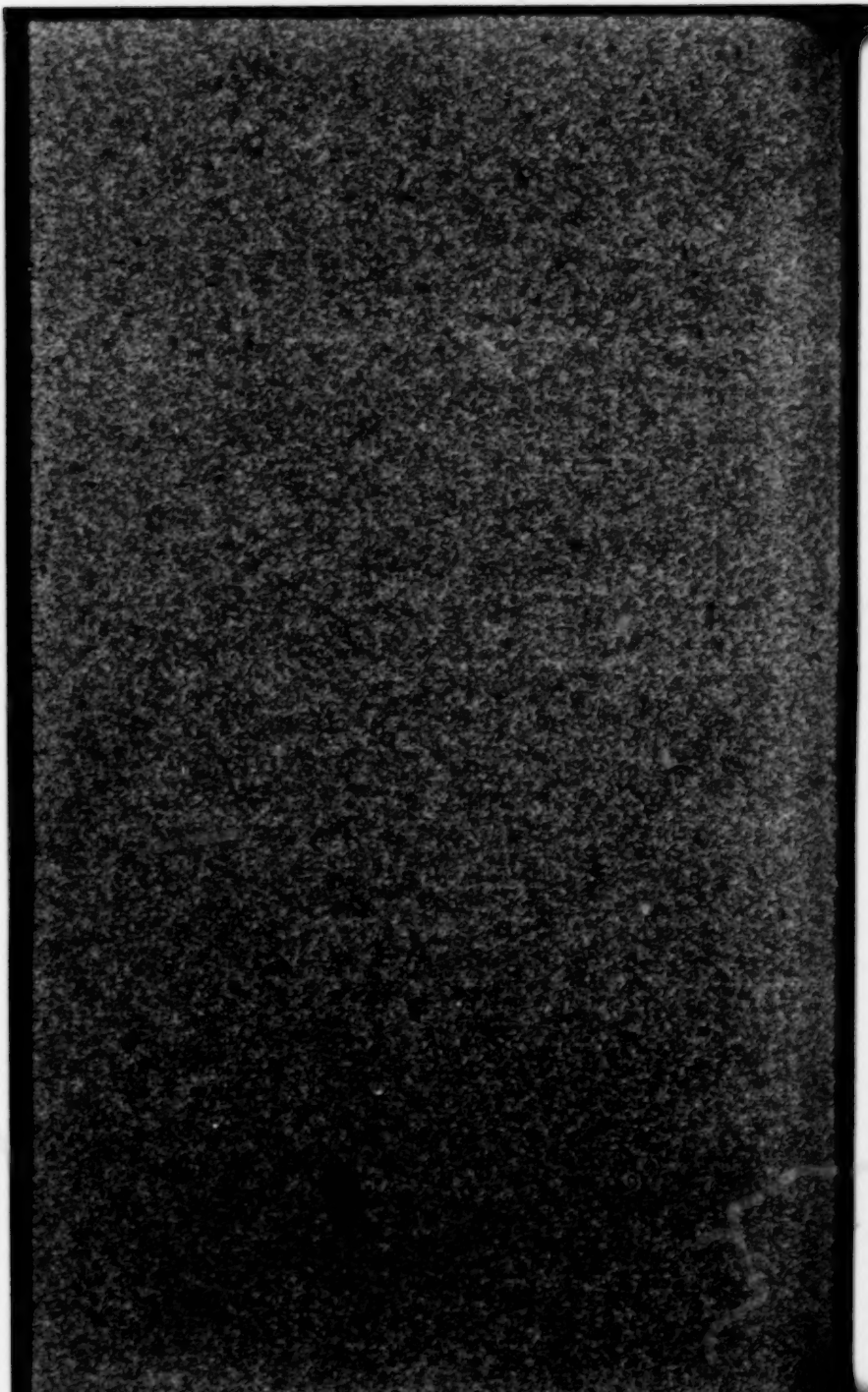
TRUMAN H. NEWBERRY ET AL., PLAINTIFFS IN ERROR,

v.

THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN.

BRIEF FOR THE DEFENDANTS IN ERROR.



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In the Supreme Court of the United States.

OCTOBER TERM, 1920.

TRUMAN H. NEWBERRY ET AL., Plaintiffs in Error, v. THE UNITED STATES OF AMERICA.	No. 359.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MICHIGAN.

BRIEF FOR THE UNITED STATES.

The plaintiffs in error are seventeen of one hundred and thirty-five persons who were indicted in the District Court charged with a conspiracy to violate what is known as the Corrupt Practices Act by expending, or causing to be expended, to secure the nomination and election of plaintiff in error Truman H. Newberry to the United States Senate, more money than is permitted by the Act of Congress. Some of the defendants entered pleas of *nolo contendere*. Newberry and the sixteen other plaintiffs in error were convicted, and the remaining defendants were acquitted.

STATEMENT AS TO THE RECORD.

The record, as originally certified and printed, contains two errors: By inadvertence, the wrong indictment had been copied into the record, and, in addition to the requests for instructions to the jury which were made a part of the bill of exceptions, there had been copied, on pages 982–989, the same requests for instructions and also others which had not been made a part of the bill of exceptions.

These errors have been corrected by a stipulation of counsel, which has been printed as a supplemental record. The indictment upon which the conviction was based, therefore, is not that which appears in the original record, but is set out in the supplemental record at page 1013; and the requests for instructions to the jury appearing on pages 982–989 are not a part of the record, and only the requests for instructions found in the bill of exceptions are open to consideration.

The stipulation mentioned above refers, at page 1012, to another matter which it is proper to mention to the court. The verdict was returned on March 20, 1920. On the same day, a motion in arrest of judgment was made and overruled, and thereupon judgment was entered upon the verdict and the convicted defendants were sentenced, and the court entered the following order:

> On application of said convicted defendants, it was ordered that a stay of proceedings herein be granted for the term of 90 days to enable said convicted defendants to

> move for a new trial, settle bill of exceptions, sue out a writ of error or certiorari, or take such other proceedings as they may be advised upon their entering upon their recognizance in open court in the sum of $5,000 each as hereinafter recited. (Rec., p. 991.)

No motion for a new trial was made. This writ of error, however, was sued out and filed on June 19, 1920, ninety-one days, but exactly three months, after the entry of the judgment. (Rec., pp. 1010-1011.) It was therefore sued out and filed in time. The bill of exceptions, however, was signed and filed on the same day—that is, June 19, 1920. This was after the term of court at which the judgment was entered, since the next term of court was fixed by law to begin the first Tuesday in June. It was also 91 days after the entry of the judgment and the order allowing 90 days within which to file a bill of exceptions. Appended to the bill of exceptions, when signed by the judge, was a stipulation signed by opposing counsel and dated the same day. Nothing, however, was stipulated except that the evidence was correctly set out in the bill of exceptions. The stipulation was as follows:

> It is hereby stipulated and agreed by and between the attorneys for the plaintiffs-in-error and the defendants-in-error, that the foregoing contains all the evidence given upon the trial of this cause tending to establish the guilt of the defendants named in the

> title of the foregoing bill of exceptions, or any or either of them, of the offense charged in the indictment. (Rec., p. 956.)

The Solicitor General has deemed it his duty to call this state of the record to the attention of the court, so that, if the court is of opinion that the trial judge was without power to allow a bill of exceptions 91 days after the entry of the judgment, he will not be in the position of asking the court to consider questions arising upon a bill of exceptions which is not properly before the court. Having thus called the matter to the attention of the court, he presses no contention based on it and is content to submit the entire case and all the questions raised by counsel if the court is of opinion that it can consider the bill of exceptions. He is also entirely willing that the court shall have before it the exact facts with respect to the signing of the bill of exceptions and has accordingly incorporated them in the stipulation above mentioned. These facts are as follows:

> The stenographic transcript of the evidence and proceedings in this case was very voluminous, consisting of several thousand pages. Upon the receipt of this transcript counsel for the plaintiffs in error undertook to prepare a bill of exceptions, and were engaged in this work until about June 7, 1920, when they submitted to counsel for the Government their draft of a bill of exceptions. From that time until the presentation of the bill of exceptions to the trial

judge on June 19, 1920, the opposing counsel had been working constantly and laboriously in the effort to agree on the contents of the bill of exceptions. Counsel for plaintiffs in error were anxious that this be done without asking for a further extension of time. They had assumed all along that, if filed on June 19, it would be in time. There was, however, nothing said at any time between them and counsel representing the Government as to when the time would expire. The bill of exceptions was nearly completed on June 18, and on that date counsel for plaintiffs in error stated to the trial judge, in the presence of counsel for the Government, that the bill of exceptions would be ready for presentation on the next day, and the judge agreed to meet counsel for that purpose, and neither on June 18 nor when the bill was presented on the 19th was anything said by the judge or by counsel on either side, or any question raised as to whether the time within which it could be settled and filed had expired. (Supp. Rec., pp. 1012–1013.)

STATUTE INVOLVED.

The conviction is for a conspiracy to violate the Act of Congress of June 25, 1910 (36 Stat., c. 392, p. 822), as amended by the Act of Congress of August 19, 1911 (37 Stat., c. 33, p. 25), by expending more money to secure a nomination and election to the United States Senate than is permitted by those Acts. It is a provision of the amendatory

act of August 19, 1911, which, it is specifically charged, the plaintiffs in error conspired to violate.

The legislation of this character began with the Act of June 25, 1910. That Act evinces concern on the part of Congress over the amount of money that should be expended for the purpose of securing an election to Congress. At that time Senators were not elected by popular vote, and the Act was directed alone to the election of Representatives in Congress. It contained no reference to the nomination of candidates, but applied only to the general election of such Representatives.

Manifestly the evil at which the legislation was directed was the lavish expenditure of money for the purpose of influencing elections. It was, however, a new departure, and Congress proceeded cautiously. It did not undertake to prescribe what should constitute the legitimate and lawful purposes for which expenditures in any amount should be made. Apparently it was thought that to require publicity to be given to all contributions and expenditures would be a potent influence to curb extravagant expenditures for this purpose. Hence its first step, taken by the passage of the Act of June 25, 1910, was simply to require this publicity.

As the Act applied to elections which are usually a choice between the nominated candidates of opposing political parties, it was recognized that,

as a rule, the bulk of contributions would be received and disbursed by committees of these political parties. The Act, therefore, in section 1, defined the term "political committee," for the purposes of the Act, as including "the national committees of all political parties and the national congressional campaign committees of all political parties and all committees, associations, or organizations which shall in two or more States influence the result or attempt to influence the result of an election at which Representatives in Congress are to be elected." By sections 2, 3, and 4, every such committee was required to keep an accurate account of all money received and disbursed; and sections 5 and 6 provided that a sworn statement of these receipts and disbursements should be filed with the Clerk of the House of Representatives within 30 days after the election. This much of the Act, therefore, was directed at the activities of political parties rather than individuals. It did not apply even to a committee organized for the purpose of influencing the election of Representatives in Congress if its activities were confined to a single State.

Section 7 required every person, firm, association, or committee, other than political committees, as before defined, that shall expend or promise money for the purpose of influencing or controlling the election of Representatives in Congress to make a similar report unless the money was con-

tributed to a political committee. But this again is confined to expenditures for the purpose of influencing the election in two or more States.

The Act contains no provision applying alone to a candidate. Section 8, however, is as follows:

> That any person may in connection with such election incur and pay from his own private funds for the purpose of influencing or controlling, in two or more States, the result of an election at which Representatives to the Congress of the United States are elected all personal expenses for his traveling and for purposes incidental to traveling, for stationery and postage, and for telegraph and telephone service without being subject to the provisions of this Act.

In other words, money expended by any one from his own private funds and for his personal expenses, as specified, was not required to be made public whether he happened to be the candidate or not. Plainly, it was not deemed necessary to curb or discourage the use by a candidate of his own money in any amount so long as his expenditures should be confined to the necessary personal expenses incident to making a canvass, becoming acquainted with the voters, and enabling them to know him and judge of his qualifications.

The purpose of the amendatory Act of August 19, 1911, was to correct the defects which experience had discovered in the Act of 1910 and to extend its scope accordingly.

Apparently Congress concluded that the lavish expenditure of money would not be much discouraged so long as it was not made public until after the election, as provided in the Act of 1910. If the publication should be made before the election, so that the voters would have knowledge of the expenditures before they came to vote, the deterring influence would be much more potent. Accordingly, the Act of 1910 was amended so as to require these reports to be made, first, not less than 10 days before the election, and, second, additional reports to be made each sixth day thereafter until the election, with a final report to be made within thirty days after the election.

Having thus changed the original Act, Congress then enacted section 8, for a conspiracy to violate which the plaintiffs in error have been convicted. This section, for the first time, extends the operation of the law to expenditures in securing a *nomination* as well as an election, applies it to a Senator as well as a Representative in Congress, and fixes a limit beyond which the candidate may not incur or cause to be incurred expenses. It defines the word "candidate" so as to include—

> all persons whose names are presented for nomination for Representative or Senator in the Congress of the United States at any primary election or nominating convention, or for indorsement or election at any general or special election held in connection

> with the nomination or election of a person to fill such office, whether or not such persons are actually nominated, indorsed, or elected.

It then requires that every person who shall be a candidate for nomination at any primary election or nominating convention, or for election at any special or general election for either Senator or Representative in Congress shall, not less than ten days or more than fifteen days before the day of holding such primary election or nominating convention, and before the day of the general or special election, file with the clerk of the House of Representatives or the secretary of the Senate—

> a full, correct, and itemized statement of all moneys and things of value received by him or by any one for him with his knowledge and consent, from any source, in aid or support of his candidacy, together with the names of all those who have furnished the same in whole or in part;

and also an itemized account—

> of all moneys and things of value given, contributed, expended, used, or promised by such candidate, or by his agent, representative, or other person for and in his behalf with his knowledge and consent, together with the names of all those to whom any and all such gifts, contributions, payments, or promises were made, for the purpose of procuring his nomination or election.

An additional report is then required to be filed within 15 days after the primary election or nominating convention and within 30 days after any general or special election or an election by the legislature. There are some special provisions as to what these statements shall contain, and then comes the particular part of the Act under which the plaintiffs in error were convicted as follows:

> No candidate for Representative in Congress or for Senator of the United States shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election, any sum, in the aggregate, in excess of the amount which he may lawfully give, contribute, expend, or promise under the laws of the State in which he resides: *Provided*, That no candidate for Representative in Congress shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding five thousand dollars in any campaign for his nomination and election; and no candidate for Senator of the United States shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding ten thousand dollars in any campaign for his nomination and election: *Provided further*, That money expended by any such candidate to meet and discharge any assessment, fee, or charge made or levied upon candidates by the laws of the State in which he resides, or for his necessary personal expenses, in-

> curred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), and distributing letters, circulars, and posters, and for telegraph and telephone service, shall not be regarded as an expenditure within the meaning of this section, and shall not be considered any part of the sum herein fixed as the limit of expense and need not be shown in the statements herein required to be filed. (37 Stat., p. 28.)

In connection with this Act it will also be necessary to consider section 332 of the Criminal Code of the United States, which is as follows:

> Whoever directly commits any act constituting an offense defined in any law of the United States, or aids, abets, counsels, commands, induces, or procures its commission, is a principal.

The Michigan statute fixing a limit upon expenditures for campaign purposes is as follows:

> No sums of money shall be paid, and no expenses authorized or incurred by or on behalf of any candidate to be paid by him in order to secure or aid in securing his nomination to any public office or position in this State, in excess of twenty-five per cent of one year's compensation or salary of the office for which he is candidate: *Provided,* That a sum not exceeding fifty per cent of one year's salary may be expended by the candidates for Governor and Lieutenant Governor; or where the office

is that of member of either branch of the Legislature of the State, the twenty-five per cent shall be computed on the salary fixed for the term of two years: *Provided further*, That no candidate shall be restricted to less than one hundred dollars in his campaign for such nomination. No sums of money shall be paid and no expense authorized or incurred by or on behalf of any candidate who has received the nomination to any public office or position in this State, in excess of twenty-five per cent of one year's salary or compensation of the office for which he is nominated; or where the office is that of member of either branch of the Legislature of the State, the twenty-five per cent shall be computed on the salary fixed for the term of two years: *Provided*, That no candidate shall be restricted to less than one hundred dollars. No sum of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate contrary to the provisions of this Act. (Michigan Public Acts, 1913, No. 109, section 1, pp. 189–190.)

THE INDICTMENT.

There were six counts in the indictment as returned. The plaintiffs in error, however, were convicted only on the first count after that count had been consolidated with the fourth, and hence it is only necessary to mention that count. After setting out the pendency of a primary election to be held under the laws of Michigan on August 27,

1918, for the nomination, among other things, of candidates for the office of United States Senator to be filled at the general election in November, 1918, and naming those who were candidates of the opposing parties in that primary, the conspiracy is charged by averring that the parties named as defendants—

> continuously and at all and divers times throughout the period of time from December 1, 1917, to and including said November 5, 1918, at and within said Southern Division of said Western District of Michigan, unlawfully and feloniously did conspire, combine, confederate, and agree together, and with divers other persons to said grand jurors unknown, to commit an offense against the United States, to wit, the offense on the part of said Truman H. Newberry of wilfully violating the Act of Congress approved June 25, 1910, as amended by the Acts of August 19, 1911, and August 23, 1912, by giving, contributing, expending, and using and by causing to be given, contributed, expended, and used, in procuring his nomination and election as such Senator at said primary and general elections, a sum in the aggregate in excess of the amount which he might lawfully give, contribute, expend, or use or cause to be given, contributed, expended, or used for such purpose under the laws of said State of Michigan, to wit, the sum of one hundred thousand dollars, and by giving, contributing, expending, and

> using and causing to be given, contributed, expended, and used in procuring his nomination and election as such Senator, at said primary and general elections, a sum in the aggregate in excess of ten thousand dollars, to wit, said sum of one hundred thousand dollars, and on the part of said other defendants of aiding, counseling, inducing, and procuring said Truman H. Newberry so to give, contribute, expend, and use and cause to be given, contributed, expended, and used said large sum of money in excess of the amounts permitted by the laws of the State of Michigan and the said Acts of Congress; the same to be money so unlawfully given, contributed, expended, and used by said Truman H. Newberry, and by him caused to be given, contributed, expended, and used as such candidate for the following and other purposes, objects, and things, to wit: * * * (Supp. Rec., pp. 1014–1015.)

This is followed by enumerating almost every imaginable purpose for which money can be used in a political campaign, and this enumeration is followed by averring numerous overt acts in the carrying out of the conspiracy.

HISTORY OF THE CASE IN THE COURT BELOW.

The defendants filed demurrers which raised the question whether the facts alleged constituted an offense under the laws of Congress and also challenged the constitutionality of the Corrupt Practices Act. The demurrers were overruled.

At the trial the defendants challenged the array of jurors and this was overruled. They then moved that the Government be required to furnish them with a list of the witnesses who had been examined before the grand jury and also those who would be called to testify on the trial. This was overruled. At the conclusion of the evidence, motions to direct verdicts were made and overruled. The verdict was as stated above.

STATEMENT OF THE RECORD SO FAR AS IT RELATES TO THE CHALLENGE TO THE ARRAY OF JURORS.

Since it is sought to predicate error upon the action of the court in overruling a challenge to the array of jurors, it is proper to state, at this point, just what the record shows on that subject. The bill of exceptions, at page 20 of the record, states that a challenge to the array was filed on January 27, 1920, and argued that day. The challenge itself is not made a part of the bill of exceptions nor incorporated therein. There appears, at page 975 of the printed record, an entry to the effect that the defendants, by their counsel, presented and placed on file a challenge to the array of jurors and that the same was considered and overruled. Beginning on the bottom of the same page there is printed what purports to be a "challenge to the array," under the title of this case. This, however, is not a part of the technical record, and, not being incorporated in the bill of exceptions, can not now be said to be a part of the record.

Moreover, if it was a part of the record, no proof was offered in support of any statement of fact made in it. In overruling the challenge, however, the court delivered an opinion, which is incorporated in the bill of exceptions, from which the following appears:

1. The names in the box from which the jury was drawn had been selected in the manner which had prevailed in the district for many years. The clerk and jury commissioner requested the county clerks, who were the custodians of the county jury lists, to furnish them lists containing the names of men eligible for jury service. Similar lists were requested of other men in position to give helpful information. Such lists were furnished and used in making the selection, but it does not appear what proportion of the names in the box had been on such lists.

2. In accordance with rules of the Department of Justice, it has been the custom to print on the back of the summons delivered to a juror a warning that, if he has a valid excuse for not serving, he must write to the judge and present his excuse or he will not be allowed compensation or mileage for attending if he is subsequently excused on any ground that might have been so presented. In this case the judge caused an additional warning to be added, to the effect that the juror must not permit anyone to talk with him about any pending case.

3. The judge also caused a questionnaire, with the request that it be filled out and returned, to be sent to each juror summoned. The questions submitted were intended to elicit information as to the juror's qualifications, his relations with the defendants, and as to whether any valid reason existed why he should not be required to serve. They included a question as to whether the juror had been active in the political campaign of 1918.

As the answers were received, the judge examined them, and if they showed that a juror was disqualified or had a valid excuse, he was excused and not required to obey the summons. Whenever a juror was thus excused, counsel for both sides were immediately notified of the fact and the reasons therefor, and no exception was then taken. Some were excused because employed in official positions or occupations which entitled them to exemption, some on account of extreme age, some on account of sickness of themselves or families, and some for business reasons. None was excused because of activity in the campaign, and none for any reason which was not a valid excuse under the Michigan law.

The Michigan law on this subject is found in Compiled Laws of Michigan, 1915, vol. 3, sections 12207, 12208, and 12614, as follows (pp. 4321, 4479):

> The following persons shall be exempt from service as jurors, to wit: All officers and employees of the United States; all officers and employees of the state of Michigan;

all county officers and their deputies; all judges of courts of record; all attorneys and counselors; all officers and teachers of colleges and incorporated academies; all settled ministers of the gospel; all superintendents, engineers, and conductors of any railroad; all constant ferrymen; all members of any legally organized fire department; all members of the Michigan national guard; all registered pharmacists; all practicing physicians, surgeons, and dentists; and all persons more than sixty-five years of age.

The court to which any person shall be returned as a juror, shall excuse such juror from serving at such court, whenever it shall appear:

1. That he is exempt from serving on juries by the provisions of the preceding section; or

2. That he is a justice of the peace, or executes any other civil office, the duties of which are, at the time, inconsistent with his attendance as a juror; or

3. That he is a teacher of any school, actually employed and serving as such; or

4. When for any other reason, the interests of the public, or of the individual juror, will be materially injured by such attendance, or his own health, or that of any member of his family requires his absence from such court.

It shall be a good cause of challenge to any juror, in any court of record in this state, in addition to the other causes of

challenge allowed by law, that such person has served as a juror upon the regular panel, or as talesman in such court at any time within one year previous to such challenge.

THE FACTS.

It is necessary to review the facts only for the purpose of determining whether, as alleged in the indictment and proven on the trial, they constitute an offense under the laws of the United States, and hence whether there was any error in overruling motions to direct verdicts in favor of defendants. In stating the facts, therefore, we may ignore conflicts in the evidence and content ourselves with stating facts which there is any material evidence to support. But it may be stated that, except as to some minor matters, the facts that will be stated were established without conflict in the evidence, and, indeed, most of the essential facts are established by the testimony of plaintiff in error King.

A United States Senator was to be elected in Michigan at the general election in November, 1918. Under the laws of Michigan candidates for that office, to be voted for at the general election, were to be nominated at a general primary election to be held August 27, 1918. At this primary election the candidates of both parties were to be chosen, and, under the provisions of the Michigan law, the same man could be a can-

didate for the nomination of both the democratic and republican parties.

The story, as detailed in the record, opens in December, 1917, when the plaintiff in error Frederick Cody, came to Washington to see J. G. Hayden, a citizen of Michigan and the Washington correspondent of a Detroit newspaper. Mr. Cody himself had lived for years in Michigan, but at that time was living principally in New York. According to his statement he came representing the plaintiff in error Truman H. Newberry, who was then a commander in the Navy, stationed at New York. Mr. Newberry was considering becoming a candidate for the republican nomination for United States Senator in Michigan. Whether the idea originated with him or was the result of solicitation on the part of friends in Michigan is immaterial.

Mr. Cody's visit to Washington was to secure, for Mr. Newberry, the services of Hayden as campaign manager. Newberry did not know Hayden, but had been referred to him by George Miller, the Washington correspondent of the Detroit News. Hayden indicated that he did not desire the proposed job, though it was suggested in the conversation that he might expect as much as $500 a month as compensation, and that it might be arranged to take care of him after the campaign. He did not agree, however, to accept and was urged to go to New York and see Newberry.

He did not agree to do this. But later he was called on the telephone by Cody, who explained that Newberry was tied up and could not come to Washington, and, in response to the request thus made, he went to New York on the following Sunday and had a conference with Cody and Newberry. This conference did not result in his agreeing to take a part in the campaign. Newberry at this time did not seem to have definitely decided to become a candidate, but was endeavoring to ascertain what his chances would be. In the course of the conversation, Hayden warned him against "a barrel campaign" as being both improper and unwise. Newberry said he agreed with this, and called attention to the fact that the Mitchell campaign in New York for mayor was an example of extraordinary and large expenditure of money. He also called attention to the fact that the Herrick campaign in Ohio was another example of the extraordinary and wasteful expenditure of money, remarking that Mr. Herrick's son carried the check book in that campaign and went around telling people that he was handling his father's check book and that the story had done Herrick more harm than his money could have done him good. It may be remarked, incidentally, that a different view of the wisdom of the Herrick campaign seemed later to have prevailed, for on March 8, 1918, the man who had then become manager of the Newberry campaign

wrote Newberry: "I am going to Cleveland tonight for the purpose of talking with the man who successfully managed Herrick's campaign for the senatorial nomination, under conditions very similar to ours, and I think I will be able to pick up some pointers." (Rec., p. 687.)

In discussing the probabilities of making a successful campaign, Hayden suggested the desirability of securing the services of Mayor Marx and Milton Oakman, who were, respectively, the heads of the city and county organizations in Detroit and Wayne County, Mich. Hayden persisted in declining to become connected with the campaign. About two weeks later, however, Mayor Marx and Mr. Robert Oakman, brother of Mr. Milton Oakman, came to New York and spent several days in conference with Newberry and Cody. While there, they had a long-distance conversation with Milton Oakman, who came to New York and joined the conference the next day. (Rec., pp. 73, 227.)

Hayden having declined to manage the campaign, the scene shifted to Detroit, and most of the rest of the story is told by plaintiff in error King.

In February, 1918, in a conference at the Hotel Statler in Detroit, King was urged by ex-State Senator George Scott and the plaintiffs in error Frederick Cody and A. A. Templeton to become the manager of the Newberry campaign for nomi-

nation. King seemed reluctant to undertake the work, but finally said that he wanted to consult with his wife and some friends, in whose judgment he had confidence, before giving a final answer. The result was that, in a few days, he reported that he was willing to manage the campaign, but, because of a difference of opinion that had arisen in a political convention some time before, he desired to confer with Commander Newberry himself before finally agreeing. It was accordingly arranged that he should go to New York for a conference with Newberry. He went and had a satisfactory conference with Newberry and Cody, the result of which was that, a little later, he agreed to undertake the management of the campaign. A most significant part of King's testimony is this:

> I think there was some general conversation about the expenses of the campaign at that time. I think Commander Newberry made a general inquiry as to what would be the expenses of a state-wide campaign, and I said that in the Townsend campaign that it had cost Senator Townsend's friends approximately $20,000 to meet the expense of that campaign, but on account of changed conditions in Michigan and throughout the state that it would cost his friends probably considerably more than that, possibly $50,000, to conduct the kind of a campaign, the Publicity Campaign, that would have to be conducted if it were to be successful; that Mr.

> Townsend had been very active in Michigan politics; had been a Congressman for a number of years; that he was very well known, while Commander Newberry had been a cabinet officer, he was not so well known in Michigan, and it would entail a greater degree of publicity and would probably for that reason cost more; that I did not know how much a campaign would cost, nobody could tell that; that if his friends decided to go ahead with his candidacy it would probably cost at least that much. (Rec., pp. 664–5.)

After his return to Detroit, King reported to plaintiff in error Templeton that he would accept the position of manager of the campaign and immediately went to work to perfect an organization. He rented offices for campaign headquarters. He proceeded with an elaborate organization, and employed a large force, involving the payment in salaries alone of sums which, before the date of the primary, would exceed $10,000.

Without attempting to state all the details of this organization, it may be said that plaintiff in error Emery became assistant secretary at a salary of $250 per month, which was later raised to $300. Plaintiff in error Hannibal A. Hopkins became publicity director at $500 per month. Templeton was known as general chairman. Plaintiff in error Floyd became secretary. Plaintiff in error McGregor became assistant secretary at $75 per week. Plaintiff in error Chilson became assistant secretary and was in charge of the

speaker's bureau. Plaintiff in error Harry O. Turner became assistant secretary and, together with Emery, was in charge of pay rolls and the office. In addition, Margaret Nevin and Mrs. Delamater and a number of others were employed as stenographers at $25 per week. William Calnon and T. P. Phillips and James B. Haskins were employed in the publicity department—Phillips at $100 per week and the other two at $75 per week. Others, too numerous to mention now, were employed at various salaries.

Of the plaintiffs in error not already mentioned, it may be stated that, in general, their connection with the matter was as follows: Roger M. Andrews had an important part in the organization throughout the campaign. As early as March 24, in company with King and Templeton, he visited Newberry in New York, his hotel bill being paid by Newberry. In February he had a conference with Templeton and Cody in Chicago. Later he had numerous conferences with King and telegraphic communication with Floyd and other members of the organization. He was practically in charge of the campaign in a part of the State and actively participated in numerous arrangements calling for the expenditure of much money.

Milton Oakman, although previously committed to the support of ex-Governor Osborn, was in the game almost from the beginning. As stated above,

he was in New York conferring with Cody, Newberry, Marx, and his brother, Robert Oakman, within a very short time of Hayden's visit to Newberry. During the campaign he was a part of the organization and in charge of the expensive campaign conducted in Wayne County; and there is evidence strongly tending to show that he was very handsomely compensated for his services—indeed, that the amount paid him very much exceeded $10,000.

Richard H. Fletcher, while not honored with any title, was an exceedingly active member of the organization and in close touch with King and the other officials of the committee. He participated actively in the expending of money and in various other activities which necessarily involved the expenditure of large sums.

Fred Henry was the chairman for Genesee County. He was in close touch with the details of the campaign, and his activities were much the same as those of Fletcher.

William J. Mickel was a democrat whose services were enlisted. He claimed to be dissatisfied with the efforts of the leaders to commit his party to the candidacy of Henry Ford. He seems to have been brought into the organization in connection with a scheme to have James W. Helme become a candidate for the democratic nomination against Henry Ford.

Mickel undertook this part of the work and finally, with the aid of King & Floyd, succeeded

in inducing Helme to become a candidate, his campaign to be financed by the Newberry organization. This financing was done through Mickel, who was exceedingly active. Having thus become a part of the organization, he engaged in many activities outside of the Helme candidacy, and was one of the men who actually disbursed considerable sums of money and made arrangements calling for other disbursements.

John S. Newberry became a most substantial part of the plan to conduct a campaign costing a large amount of money. He was in the Navy at the time and took no part in directing the details of the campaign. He was, however, the very backbone of the organization, for he contributed $99,500.

George S. Ladd was not a resident of Michigan. He resided in Massachusetts. He had previously been in Michigan and had done a good deal of campaigning in that State in the interest of good roads and similar enterprises in which farmers were particularly interested. He was asked to come to Michigan. When he arrived it was explained to him that he could be very helpful by making speeches in behalf of Newberry. The idea was for him to go to nonpartisan gatherings, make speeches on good roads and similar subjects, and in the course of his speeches give Newberry a boost. This he agreed to do and spent some four weeks campaigning in this manner

under the direction of the Newberry organization, returning frequently to headquarters for conferences and reports. He was paid $450.

King and the other members of the organization did their work thoroughly. With one or two exceptions every county in the State was organized and money was spent liberally in doing this. Paid advertisements were inserted in nearly every newspaper in Michigan at an enormous expense. Special efforts were made and much money expended to enlist the organized support of ex-soldiers, farmers, labor unions, fraternal organizations, and almost every other organization that could be supposed to exert any influence. Paid speakers were sent all over the State. Indeed, it is doubtful if as thorough, effective, and, incidentally, as *expensive* a campaign for a nomination was ever conducted in any State in the Union.

The amount expended is admitted to have been in the neighborhood of $200,000. The record is full of evidence from which the irresistible inference is that this was, in fact, a comparatively small part of what was actually expended. It was shown that the amount deposited in banks, at first to the credit of King, as chairman, and later to the credit of the Newberry senatorial committee, was not far from $200,000. The report of the contributions and expenditures which the committee made in compliance with the Michigan law itself showed total receipts $178,856.00, and total dis-

bursements $176,568.08. The evidence shows that much of the money actually expended was not included in this report, but, for the purposes of this statement, we may take the summary of these reported receipts and disbursements as set out on page 18 of the brief in behalf of the plaintiffs in error. The summary thus made by counsel is as follows:

Total receipts (and the report shows by name, date, and amount the source of every dollar)		$178,856.08
Total disbursements		176,568.08
(The report shows these items by name and amount. The disbursements are accounted for under the following subheadings:)		
For advertising and other publicity	$147,800.16	
Office expenses, including rent, furniture, light, and clerk hire	9,059.13	
Telephone, telegraph, and other charges	1,514.14	
Traveling expenses	9,104.52	
Copying of election registers and canvassing the voters	4,875.38	
Salaries and compensation not otherwise charged	4,143.75	
Total		176,568.08

In this statement of facts it has not been attempted to do more than give a general outline of the facts showing the connection of each of the plaintiffs in error with the conspiracy. In order to show, however, that there is ample evidence to support the general facts thus stated, there is attached to this brief, as an appendix, an abstract of so much of the testimony as relates to each of the plaintiffs in error.

QUESTIONS NOW INVOLVED.

The questions for the consideration of this court have arisen from the action of the District Judge in overruling a demurrer to the indictment, upon the ground that so much of the Act of Congress as applies to primary elections is unconstitutional and that the indictment does not charge an offense under the law; from his action in declining to direct verdicts in favor of defendants; and from his action in the admission and exclusion of evidence and in ruling on other questions raised at the trial.

The questions, grouped in two classes, are these, the first group including the following:

1. Does the indictment charge an offense under the laws of the United States?

2. Is the Corrupt Practices Act of Congress constitutional as applied to primary elections for the nomination of United States Senators?

3. Was there evidence upon which the case, as to the plaintiffs in error, should have been submitted to the jury?

The second group includes the following:

1. Was there error in overruling the challenge to the array of jurors?

2. Was there error in declining to require the Government to furnish a list of witnesses?

3. Was there error in either admitting or excluding evidence?

4. Was there error in the charge of the court?

BRIEF.

I.

Assuming that the corrupt practices act is constitutional, the indictment clearly and distinctly charges an offense under the laws of the United States.

The indictment charges a violation of section 37 of the Criminal Code, which is as follows:

> If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than ten thousand dollars, or imprisoned not more than two years, or both.

The offense which, it is charged, these parties conspired to commit was a violation of that part of the Corrupt Practices Act which deals with expenditures for the purpose of securing a nomination and election to the United States Senate. This offense is specifically described as—

> the offense on the part of said Truman H. Newberry of wilfully violating the Act of Congress * * * by giving, contributing, expending, and using, and by causing to be given, contributed, expended, and used, in procuring his nomination and election as such Senator at said primary and general elections, a sum, in the aggregate, in excess of the amount which he might lawfully give, contribute, expend, or use, or cause to

be given, contributed, expended, or used, for such purpose under the laws of said State of Michigan, to wit, the sum of one hundred thousand dollars, and by giving, contributing, expending, and using, and causing to be given, contributed, expended, and used, in procuring his nomination and election as such Senator, at said primary and general elections, a sum in the aggregate in excess of ten thousand dollars, to wit, said sum of one hundred thousand dollars, and on the part of said other defendants of aiding, counseling, inducing, and procuring said Truman H. Newberry so to give, contribute, expend, and use, and cause to be given, contributed, expended, and used, said large sum of money in excess of the amounts permitted by the laws of the State of Michigan and the said Acts of Congress. (Rec., pp. 1014–1015.)

The indictment then sets out the purposes for which the money so contributed was to be expended, but it is not now necessary to repeat these allegations.

It will be seen that the indictment first follows exactly the language of the statute in charging a conspiracy as the result of which Newberry was to contribute and use or cause to be contributed and used for the purpose of securing his nomination and election a sum in excess of the amount which it was lawful for him to contribute or use or cause to be contributed and used for that pur-

pose, and the other defendants were to aid, counsel, induce, and procure him to commit that offense.

The substantive offense charged is the conspiracy. The act which the parties conspired to do is described exactly as the offense denounced by the Corrupt Practices Act is described in that Act. That Act made it unlawful for Newberry to contribute or expend an amount in excess of $10,000, or of the amount which would be lawful under the laws of Michigan, or to cause such an amount to be contributed or expended. If Newberry did either of these things, he would violate the Act in question. If any of the other defendants aided, abetted, counseled, commanded, induced, or procured him to do so, they would be guilty under section 332 of the Criminal Code as principals in the offense. The indictment clearly charges that they did conspire together to bring about the result that Newberry, as the candidate, and the other defendants aiding and inducing him should expend or cause to be expended, for the purpose of securing Newberry's nomination and election, a sum in excess of that allowed by the law.

Assuming, therefore, that the Act of Congress is constitutional, it can scarcely be doubted that this indictment charges facts which, if proven, constitute an offense under the law.

II.

That the candidacy of Commander Newberry was launched with the distinct understanding and agreement between him and other of the plaintiffs in error that a fund of not less than $50,000 was to be raised and used for the purpose of securing his nomination and election is put, by the record, beyond all doubt.

That in the neighborhood of $200,000 was raised by men in close touch with Newberry, and constituting themselves the Newberry senatorial committee, and used by them for the purpose of securing his nomination, is not denied. That his candidacy was undertaken as the result of an understanding with some of the other plaintiffs in error that there would be raised and expended for this purpose at least $50,000 can not be seriously controverted. That such an understanding and agreement existed from the date of the conference in New York at which Newberry, Cody, and King were present, and as a result of which Newberry became an avowed candidate and King undertook the management of his campaign, will hardly be seriously questioned. Up to this time Newberry had been very carefully inquiring into the situation with a view to determining whether he could probably be nominated and elected. In this conference, he inquired what would be the probable expense of the kind of campaign that would be necessary in order to succeed. King had previously managed a similar campaign for

Senator Townsend and was in position to give reliable information. He gave this very frankly. Newberry was told that the Townsend campaign had cost $20,000, but that he could not expect to succeed without a more expensive campaign. It was explained that Townsend had been in Congress for a number of years and active in Michigan politics, and hence at the time of his candidacy for the Senate was well known politically all over the State, while Newberry was not well known. It was known, of course, that he had for a time been a member of the Cabinet, but he was practically unknown to the voters of Michigan, and, if he was to succeed as a candidate, steps must be taken to make the voters acquainted with him. King said that he could not state accurately what it would cost to do this, but that it would cost much more than was expended in the Townsend campaign, and probably as much as $50,000.

Newberry had explained that he was on duty as an officer of the Navy, and hence could not go to Michigan for the campaign and could not indulge in the usual activities of a candidate by making a personal canvass of the State. In other words, it was distinctly understood that if he became a candidate the campaign would have to be conducted in Michigan for him by the manager of his campaign and those who would become associated with the latter.

The men engaged in this conference were not novices. They were experienced business men and

politicians. When it was explained that the campaign which would be necessary would cost at least $50,000, they all knew that Newberry could not contribute any such sum without violating the law. They had reached the conclusion that he could not be nominated or elected without the expenditure of at least that much money. He was unwilling to become a candidate unless convinced that he had a reasonable chance to be elected. The raising and expending of $50,000 or more was, therefore, a condition without which, they all agreed, it would be useless for him to become a candidate and without which he was not willing to be a candidate. The result of the conference was that he became a candidate, and King, who had advised him how much money would be necessary if he were to manage the campaign, became campaign manager with the understanding that the necessary money would be forthcoming. In view of subsequent developments, the inference is irresistible that it was understood that this money would come—at least, nominally—from Newberry's friends, associates, and relatives. At any rate, it is perfectly clear that Newberry would not have been a candidate if it had not been arranged to raise and expend at least $50,000 to secure his nomination and election. It is entirely fair, therefore, to say that he became a candidate on condition and with the distinct understanding and agreement that the money necessary to conduct a campaign costing at least $50,000 would be contributed and used.

III.

Such an understanding and agreement as is described in the preceding paragraph amounts to a conspiracy participated in by Newberry, Cody, and King to contribute and expend, or cause to be contributed and expended, as much as $50,000 to secure the nomination and election of Newberry; that is, to violate the corrupt practices act.

The understanding or agreement described above, in the aspect most favorable to the plaintiffs in error, was an agreement on the part of Newberry to become a candidate, if King and Cody, and others associated with them, would go out and raise as much as $50,000 or whatever, in addition, should be necessary to be used for Newberry, and to use it for him in conducting the campaign which was believed to be necessary to secure his nomination and election. If section 8 of the statute had stopped with the statement that no candidate for Senator "shall give, contribute, expend, use, or promise" any sum in excess of the amount specified, the thing which was thus agreed to be done would have been a violation of the law on the part of Newberry, and those who aided or abetted him would be guilty with him as principals. But when Congress went further and prohibited such a candidate not only from doing these things but from *causing them to be done*, all possible question was removed.

When the Act is examined carefully, it is obvious that this last provision was inserted to

make it impossible to evade the spirit of the Act. Throughout the statute the candidate is treated as doing whatever is done for him by his agent or representative *or by any other person for and in his behalf with his knowledge and consent.* Thus, in the report which he is required to make of contributions to his campaign fund, he is required to include not only all moneys and things received by him personally but also any things received "by anyone for him with his knowledge and consent." Likewise, in reporting his disbursements, he is to include all disbursements made by himself "or by his agent, representative, or other person for and in his behalf with his knowledge and consent." (37 Stat., p. 27.)

Under the arrangement above described, it can not be doubted that when King and Cody left the conference in New York it was understood that they were to receive and, if necessary, solicit for Newberry the funds necessary to conduct a campaign which it was expected would cost as much as $50,000. Can it be doubted that when they solicited and received funds for this purpose they did so as the agent or representative of Newberry? If so, it certainly can not be doubted that they were persons who received these funds "for him with his knowledge and consent." He had, in effect, sent them out for the very purpose of receiving and expending moneys so raised. If, therefore, he complied with the Corrupt Practices

Act, it would be necessary for him to include in his own report the moneys collected and disbursed by these persons for him in conducting his campaign.

But, if this is not true, no one can deny that he *caused* the money which was raised and expended to be given, contributed, expended, and used, because it was upon the express condition that these things should be done that he became a candidate. If it is possible to use language which can not be misconstrued, this statute makes it unlawful for a candidate to cause money to be raised and expended by becoming a candidate only when it has been arranged that such money shall be raised and expended.

That no distinction is made between money which is contributed and expended by a candidate and that which is raised and expended as a result of an agreement with him or an understanding with him that it shall be raised is again made clear by the exception introduced into the statute by the proviso. It is there provided that the candidate need not include in his report of campaign expenses money expended to pay any assessment, fee, or charge made or levied upon candidates by the laws of the State or moneys expended for his necessary personal expenses "incurred for himself alone," for travel, subsistence, stationery, postage, writing, or printing (other than in newspapers) and distributing letters, circulars, and

posters and for telegraph and telephone service. The line of demarcation, therefore, is not between moneys contributed or received by the candidate in person and those which are contributed or received by some one for him with his knowledge and consent, but rather between such funds as are expended to defray the personal expenses of the candidate and those which are invested in a paid propaganda to promote his interests. If money is expended for the personal expenses specified, the candidate is not required to report it, whether drawn from his own funds or contributed to him by others. The reason is obvious. The purpose of Congress was to prevent extravagant expenditures in campaigns looking to the election of Senators and Representatives. Such expenditures, if sufficiently lavish, may easily, to all intents and purposes, practically result in purchasing a nomination or election, even though no money may be used for any purpose which is not ordinarily regarded as legitimate. No votes may actually be purchased at so much a vote; no election officers may be bribed, but, by the skillful placing of advertising, influences may be enlisted in ways which frequently fall little short of outright purchase. Money liberally paid for various kinds of services is, so far as actual results are concerned, often not very different from bribes.

At the same time, the actual personal expenses of a candidate making a thorough canvass of a

State may frequently reach a large amount. Congress had no purpose, and there was no reason why it should have, to curb the personal activities of a candidate which would make the voters acquainted with his personality. Such activities, in fact, tend to promote intelligent voting. By the proviso referred to above, therefore, it has been enacted that, for the personal expenses specified, a candidate may expend any amount of money that is necessary. He may become a candidate long before the election and give his undivided time to making a canvass. He may go into every civil district in the State and talk with and solicit the vote of every voter he can find. He may write a personal letter to every voter in the State, and repeat these letters as often as he deems necessary. He may personally use the telegraph and telephone for communication. The law does not require him to report the amount expended for any of these purposes. The proviso itself, however, contains an exception which is significant. He can not treat as personal expenses, within the meaning of the proviso, the cost of printed matter published in newspapers. This serves to emphasize the distinction to which attention is now to be called.

After leaving the candidate thus unlimited with respect to his personal expenses, Congress also recognized that the expenditure of some money for other purposes is necessary in carrying on any

campaign. It is legitimate to employ clerks, to rent offices for headquarters, to hire halls for public meetings, and even to publish announcements and advertisements in newspapers. Expenses of this kind, however, may easily be incurred to such an extent as to improperly influence the election. Therefore, Congress has enacted that there shall be a limit upon the amount that may be expended in the way of promoting a paid propaganda for a candidate, even though the separate items of expenditure be entirely legitimate.

A moment's consideration will show that this legislation was necessary, if the experiment of nominating candidates by primary elections is to be in any degree satisfactory. If a paid propaganda to an unlimited extent, or to the extent employed in this Michigan campaign, is permitted, then no man who is not willing to spend a fortune, or who can not enlist powerful influences willing to contribute a fortune, can scarcely expect to be successful in a primary if he has a rich opponent who is willing to spend all that is necessary for the purpose indirectly of subsidizing newspapers, paying for influence, and in other ways, through the use of money, arousing interest and influencing votes.

The understanding reached by Newberry, King, and Cody at the conference in New York was undoubtedly an agreement or conspiracy to cause to be done the very thing thus prohibited by the stat-

ute. Newberry became a candidate with the understanding that his candidacy was to be promoted by a paid propaganda and that Cody, King, and those who would be associated with them would act for Newberry in receiving and disbursing funds necessary to conduct such a propaganda or campaign as would cost not less than $50,000. That these facts abundantly justify the conviction of these three men would seem to be beyond all doubt.

That, at the conclusion of this New York conference, a conspiracy existed as a result of which Newberry and those conspiring with him and acting for him were to cause more money to be contributed and used to secure his nomination and election than the law allowed is clear. In substance, here is what occurred.

Newberry wanted to be Senator, but was unwilling to become a candidate unless convinced that he had a reasonable chance of success. He was advised by Cody and King that he could not be elected without a campaign to make him known to the voters. He was on active duty in the Navy and could not go to Michigan and make a personal canvass. Cody and King thought a successful campaign could be conducted for him, under the management of King, but advised him that it would cost certainly more than $20,000, and probably as much as $50,000. If it was not said at the conference, they all knew that Newberry could not contribute that amount without bringing him-

self within the very letter of the law. Hence, in referring to the proposed campaign, King spoke of what it will cost "your friends." When the conference was over, Newberry had agreed to become a candidate. King had agreed that he and those who would be associated with him would conduct a campaign costing probably $50,000, and they all understood that the necessary funds would be contributed by Newberry's friends and, if we may judge by what actually occurred, his close relatives and business associates.

It would be a quibble to say that, when Newberry became a candidate under these conditions and upon these terms, he did not cause to be contributed the money which was promptly contributed by his friends, relatives, and business associates, or that he did not cause those who received it for him to use it for the purpose of securing his nomination and election. And this is exactly what the indictment charges that he and the other plaintiffs in error conspired to do and in furtherance of which many overt acts were committed.

It has often been said that a conspiracy is something the existence of which can usually be shown only by circumstances. But here we have a conspiracy definitely and specifically proven out of the mouth of one of the chief conspirators, whose testimony leaves nothing to be supplied by inference.

IV.

For the purpose of accomplishing the object of the conspiracy—that is, the raising and expending the money necessary to conduct the expensive campaign contemplated—an elaborate organization was perfected. Every plaintiff in error who held a responsible place in this organization and became responsible for the raising or spending of funds became a party to the conspiracy.

It is not claimed, of course, that a mere understanding or agreement having for its object the nomination or election of Commander Newberry would be an unlawful conspiracy. The charge is that the agreement or understanding actually entered into was an unlawful conspiracy because its object was to secure this nomination and election through unlawful means—that is, the causing of an unlawful amount of money to be contributed and expended for that purpose. As shown above, there was clearly an agreement or understanding of this kind between Newberry, Cody, and King at the conference which was the beginning of the campaign conducted by King. This, however, was a continuing conspiracy and contemplated the bringing in of other parties. The things agreed to be done were to cover the intervening period of time between that date and the election, or, at least, the primary election. It is not alone the parties who originally enter into an unlawful conspiracy of this kind who are guilty. Those who later became parties to the agreement or understanding are equally guilty. This particular con-

spiracy contemplated an organization in which a number of men were to be banded together and engaged in the work of raising and expending funds for the purpose of conducting an expensive campaign on behalf of Newberry, with such cooperation and assistance as he could give from New York.

The organization, as actually perfected, was a most thorough and efficient one. No man holding a responsible position in it and actively participating in the work which called for the expenditure of large sums of money could fail to know that he was aiding in expending more money than the law allowed Newberry to cause to be expended for that purpose. The organization throughout the campaign was in close and constant touch with Newberry himself. Daily reports were sent to him detailing what was being done. From time to time he was advised of the names of men throughout the State with whom the organization desired him to communicate, and, for this purpose, letters were prepared at the Detroit headquarters for his signature and, at frequent intervals, sent to him, at New York, for signature and mailing, often in batches of 100 or more. Frequent trips were made to New York by those active in the campaign for conferences with him.

No man taking a direct part in the work of the organization could fail to know that the money which he was spending had been received and was

being expended for and in behalf of Newberry, and that this was being done as a result of an understanding with Newberry that these funds were to be furnished if he became a candidate. Every such man, therefore, knew that he was helping to carry out an arrangement which amounted to an unlawful conspiracy, through which Newberry was causing funds to be raised and expended in violation of the Corrupt Practices Act.

It is not claimed, of course, that the voluntary expenditure of money by any person for a purpose intended by him to aid in the election of Newberry, but not as the result of any arrangement or understanding with the latter or those acting for him, would make Newberry responsible for the expenditure or render the person making it a party to the conspiracy entered into by Newberry with the members of the organization resulting from the understanding which existed when he became a candidate. But certainly those who were identified in a managing or directing capacity with the organization, and those actively promoting its purposes, did become parties to the conspiracy.

For this reason the record fully sustains the conviction of the plaintiffs in error.

As we have seen, Newberry was a candidate whose candidacy resulted from the conspiracy itself. Cody was, from the beginning, Newberry's closest adviser and the chief promoter of the con-

spiracy in which he continued to be exceedingly active throughout the campaign. Templeton was general chairman. King was one of the original conspirators, the manager of the campaign, and its leading spirit, having the general direction of all expenditures. Floyd was the secretary, McGregor, Chilson, and Turner and Emery were assistant secretaries, and the two latter had charge of the pay rolls. Hopkins was publicity director, and under his direction enormous sums of money were expended. Andrews was active from the beginning, having been in conference with Newberry, King, and Templeton in New York as early as March 24. He was one of the chief advisers throughout the campaign, and practically had charge of the expensive campaign work in a section of the State. Oakman was in New York in conference with Newberry, Marx, and Robert Oakman shortly after the unsuccessful effort to induce Hayden to take charge of the campaign. He had previously been supporting ex-Governor Osborn, but became actively identified with the Newberry organization and had charge of the Wayne County department of the Newberry headquarters and directed the expensive campaign made in that county. Fletcher was one of the most active men in the organization and directed many matters calling for the expenditure of money. Henry was chairman of one of the county organizations and actively participated in the expenditure of money

for campaign purposes. Mickel, in addition to managing and directing the financing by the Newberry committee of the Helme candidacy, participated in numerous other activities calling for the expenditure of money. He was, in fact, a part of the organization. John S. Newberry, it is true, was in the Navy at the time and took no part in managing or directing the campaign. There were two parts, however, to the conspiracy: One was to consist in unlawfully raising and furnishing the funds and the other in unlawfully expending them. In the raising of the funds he played a most important part, for he furnished $99,900 in money for carrying out the conspiracy.

Assuming, as the proof clearly shows, that there was a conspiracy, as above outlined, there would seem to be no room for doubt that there is ample evidence to justify the conclusion of the jury that all these men were parties to it.

This leaves only the plaintiff in error, George S. Ladd. He was not a resident of Michigan. He resided in Massachusetts, but had a wide acquaintance and a supposed influence, particularly with farmers, in Michigan as a result of previous campaigns which he had made in the interest of good roads. He was sent for and asked to make speeches in Newberry's interest. He acceded to the request, and, under the direction of the Newberry committee, spent several weeks in campaigning, being frequently at the Detroit headquarters and in conference with the officials

of the Newberry committee. He was paid, as compensation or expenses, or both, $450. This furnished evidence from which the jury could properly conclude that he became a party to the conspiracy by actively participating in the carrying out of its purposes.

That the court may have before it, in more detail, the exact connection of each of the plaintiffs in error with the conspiracy, there is, as before stated, printed as an appendix to this brief an abstract of the evidence relating to each of them.

V.

The construction placed upon the statute by the court below.

The charge of the court below contains such an eminently fair and admirably clear exposition of the Corrupt Practices Act as to leave but little to be said to demonstrate its correctness. Indeed, when this part of the charge is quoted, it so plainly places upon the statute the only construction of which it is susceptible as to render argument unnecessary. We therefore quote it at length.

After setting out the provisions of the Act of Congress and the Michigan statute, which are directly involved, the court said:

> The words " give, contribute, expend, or use " as employed in this statute have their usual and ordinary significance, and mean furnish, pay out, disburse, employ, or make

> use of. The term "to cause to be expended, or used," as it is employed in this statute, means to occasion, to effect, to bring about, to produce the expenditure and use of money. (Rec. p. 940.)

A volume could be written without giving a more accurate definition of these terms, or one which a jury would more easily understand. The court proceeded to say:

> The prohibition contained in this statute against the expenditure and use of money by the candidate is not limited or confined to the expenditure and use of his own money. The prohibition is directed against the use and expenditure of excessive sums of money by the candidate from whatever source or from whomsoever those moneys may be derived. (Rec. p. 940.)

Surely, no one will question the correctness of this statement. The prohibition is expressly against the use of money and not against the means by which the candidate may have obtained it in order to use it. The charge continues:

> The phrase which constitutes the prohibition against the candidate "causing to be given, contributed, expended, or used excessive sums of money," is not limited and not confined to expenditures and use of money made directly and personally by himself. This prohibition extends to the expenditure and use of excessive sums of money in which the candidate actively participates, or assists, or advises, or directs,

> or induces, or procures. The prohibition extends not only to the expenditure and use of excessive sums of money by the candidate directly and personally, but to such use and expenditure through his agency, or procurement, or assistance. (Rec. p. 940.)

Unless no significance whatever is to be given to the expression "cause to be," this must be a correct statement of the law.

The court next proceeded to eliminate from the consideration of the jury those expenditures for which under the law the candidate would not be responsible by saying:

> To constitute a violation of this statute knowledge of the expenditure and use of excessive sums of money on the part of the candidate is not sufficient; neither is it sufficient to constitute a violation of this statute that the candidate merely acquiesces in such expenditures and use. But it is sufficient to constitute a violation of this statute if the candidate actively participates in doing the things which occasion such expenditures and use of money and so actively participates with knowledge that the money is being expended and used. (Rec. pp. 940–941.)

This construction relieves the candidate of all responsibility for expenditures to secure his nomination if made without his knowledge. It goes further and says that mere knowledge of the expenditure will not make him responsible, and

still further and declares that even mere acquiescence in the expenditure will not be sufficient to fix responsibility. Indeed, it holds the candidate responsible only when he furnishes the money or causes or procures it to be furnished, or participates in its expenditure by taking a part in the things which occasioned the expenditure. Obviously, the statute can not be construed to mean less than this.

After thus explaining the meaning of the statute, the court said:

> To apply these rules to this case: If you are satisfied from the evidence that the defendant, Truman H. Newberry, at or about the time that he became a candidate for United States Senator was informed and knew that his campaign for the nomination and election would require the expenditure and use of more money than is permitted by law and with such knowledge became a candidate, and thereafter by advice, by conduct, by his acts, by his direction, by his counsel, or by his procurement he actively participated and took part in the expenditure and use of an excessive sum of money, of an unlawful sum of money, you will be warranted in finding that he did violate this statute known as the Corrupt Practices Act.
>
> There is another Federal statute which is one of the sections of the criminal or penal code of the United States, which provides, in substance, that any person who aids,

counsels, induces, or procures another person to commit a crime shall be deemed guilty of the crime committed through his aid, counsel, inducement, or procurement. Hence, any person who knowingly and intentionally aids, counsels, induces, or procures a candidate for United States Senator to give, contribute, expend, or use, or to cause to be given, contributed, expended, or used in procuring his nomination and election an excessive and unlawful amount of money, is also guilty of violation of the Corrupt Practices Act, the act of Congress.

Applying this statute to the present case, if you are satisfied from the evidence in this case that the respondents other than the defendant Truman H. Newberry or some of them did in fact aid, assist, counsel, induce, or procure the defendant Truman H. Newberry to violate the Federal Corrupt Practices Act, you will be warranted in finding that they also were guilty of a violation of that Act.

There is another Federal statute, which is a part of the criminal or penal code of the United States, which provides, in substance, that if two or more persons shall conspire to commit an offense against the United States and one or more of such persons shall do an act to effect the object of such conspiracy, they shall be guilty of a crime.

These three laws or statutes—the Corrupt Practices Act; the statute making

it a crime for one person to aid, counsel, induce, or procure another to commit an offense; and the conspiracy statute—are involved in and controlling of the issues in the case.

So that the specific charge made against these respondents in the first count of this indictment, founded upon these three statutes, is that at some time or times between the 1st day of December, 1917, and the 5th day of November, 1918, these respondents were engaged in a conspiracy or unlawful agreement that the defendant Truman H. Newberry would give, contribute, expend, or use, or cause to be given, contributed, expended or used in procuring his nomination and election as United States Senator, a sum of money in the aggregate in excess of the amount authorized and permitted by the laws of the State of Michigan and the United States, and that the other defendants would aid, counsel, induce, or procure him so to do; and that one or more of the defendants committed certain acts to effect the object of that conspiracy. (Rec. pp. 941-942.)

VI.

Even if the issue had been whether Truman H. Newberry himself had furnished from his own means for campaign purposes a sum in excess of the amount allowed by law, there was sufficient evidence to take the case to the jury.

Much is said in the brief for plaintiffs in error on the assumption that Newberry himself furnished no money of his own for campaign pur-

poses. It is true that in the list of contributors as reported by the committee, his name does not appear. But, if it was necessary to show that any of his money, as distinguished from money contributed by others, was used, that fact, like any other fact, could be established by circumstantial evidence. At the beginning of the story, he was personally endeavoring to secure the services of Hayden as a campaign manager for a liberal compensation. There was apparently at that time no thought that this compensation would be paid by anybody other than Newberry. When a suitable manager was found the final arrangement under which the campaign was taken was made with Newberry himself. It is conclusively shown by the record that the amount of money reported by the committee as having been contributed and expended did not include, by several thousand dollars at least, the full amount expended. No effort was made to explain where this additional amount of money came from. The major part of the contributions, as reported, were credited to his brother and his close business associates. His brother is shown not to have been in Michigan during the campaign, and the money credited to him in the report was furnished by the Newberry estate, which managed and controlled large properties in which both of the brothers were interested. Both of them had private offices in connection with this estate. The money contributed to the campaign was charged

to the account of John S. Newberry, but there were abundant circumstances in the record from which a jury might fairly infer that this charge to him was subject to future adjustment between the brothers. Just before the close of the primary campaign we find the manager advising Truman H. Newberry by wire as to how much longer the expenses would be continued, a matter in which he was not interested if he was not furnishing the money. It is respectfully submitted that an examination of the record will show that if the question as to whether Newberry himself furnished a large part of the money used had been a material issue in the case, there was abundant evidence to take the case to the jury on that issue.

VII.

It is wholly immaterial whether Truman H. Newberry furnished from his own funds any of the money which was used in the campaign.

Practically the whole of the argument contained in the brief for plaintiffs in error, so far as it relates to the construction of the Corrupt Practices Act, is based on the assumption that because Truman H. Newberry himself did not furnish any of the money used he and the other plaintiffs in error can not be guilty of a conspiracy to violate that Act. The District Judge, however, was obviously right in ruling that it was wholly immaterial whether the money expended came directly from the candidate himself or was contributed by

others. The statute draws no distinction whatever between money contributed by the candidate himself and money contributed by others to or for him. There is one distinction running through the whole statute, but it is not this. It is based entirely upon the use made of the money and not upon the source from which it comes. It has been seen that, in making the report required of him by the Act of Congress, the candidate must include, along with the money furnished by himself, all money contributed either to him or to any one else for and on his behalf. He must, likewise, report expenditures made by any one for and on his behalf.

The statute, after providing a limit upon the amount of money used or caused to be used by the candidate, adds a proviso for the purpose of making an exception by providing that certain expenses of the candidate himself shall not be considered in determining whether the limit has been exceeded. The language is this:

> *Provided further*, That money expended by any such candidate to meet and discharge any assessment, fee, or charge made or levied upon candidates by the laws of the State in which he resides, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), and distributing letters, circulars, and posters, and for

> telegraph and telephone service, shall not be regarded as an expenditure within the meaning of this section, and shall not be considered any part of the sum herein fixed as the limit of expense, and need not be shown in the statements herein required to be filed. (37 Stat. c. 33, p. 28.)

Whether, therefore, any particular expenditure is to be considered in determining whether the limit has been exceeded depends wholly upon whether it is an expense incurred for the candidate himself alone, for the purposes specified in this proviso, and not, in any event, upon whether the candidate or some other person has furnished the money. In other words, to meet the expenses specified in the proviso, he may spend money without limit and may obtain it from any source he chooses. If he expends it for any other purpose, it must be included in fixing the limit, whether it was his own money or that of some one else.

VIII.

The limit placed upon the expenditures applies to expenditures made for and on behalf of a candidate as well as to expenditures directly by the candidate himself.

A lengthy argument is made to show that the purpose of the statute was to limit the amount which the candidate himself could contribute or expend, and not to place a limit upon the total amounts, raised by voluntary contributions, which could be expended. To sustain this contention,

however, it is necessary to wholly ignore the words "or cause to be," as used in the first sentence of that part of the statute which has been quoted above. The argument seems to be that because these words are not used in connection with the reference to the State laws, or in the two provisos, above quoted, the entire statute must be construed as limiting the expenditures made directly by the candidate and excluding such as he may cause to be made through others, because, it is said, the limit is to be measured by the State statute, which, in Michigan, refers only to expenses to be paid by the candidate. The Act will not bear such a construction. In the first sentence of the portion of it quoted, the expression, " shall give, contribute, expend, use, or promise " is followed by the definitive or qualifying expression " or cause to be given, contributed, expended, used, or promised." The word " or " is thus used in the explanatory sense in which it is frequently used, and the meaning of the two expressions together would be expressed thus: " give, contribute," etc.; that is, " cause to be given, contributed," etc. Having thus defined the words " give, contribute," etc., when first used, Congress, when it repeated them in the provisos and the reference to the State statute, of course, did not repeat the definition. The words are used throughout the section in the same sense in which they are defined in the first sentence. To put

upon them the construction contended for would be to ignore entirely a part of the language used.

However, even the construction contended for would not sustain the argument. Suppose it to be assumed that the limit fixed by the statute of Michigan includes only expenditures made directly by the candidate (and this is by no means conceded), it follows that Congress has not adopted this statute in full. The amount which it allows to be expended, even under this construction, would include all the personal expenses of the candidate, for no exception is made. The second proviso to the Act of Congress, which has been quoted above, excludes from consideration the major part of these personal expenses. And while it retains the amount fixed *by* the statute of Michigan, it permits the expenditure of that amount plus the amount of personal expenses specified in the proviso. Moreover, this limit is applied expressly by Congress both to amounts used and those caused to be used. The result would be, under the construction contended for, that the amount which a candidate either uses or causes to be used shall not exceed the amount which the Michigan statute says he may directly expend himself. This, upon the construction contended for, would include within the limit things which the Michigan statute did not include. If, however, the limit is made more stringent in this respect, it is liberalized to a much larger extent by the proviso which allows an expenditure without limit for nearly all the legitimate purposes for

which a candidate can spend money. Under any possible construction, then, a candidate who uses or causes to be used money in excess of the amount limited by the Michigan statute, in addition to personal expenses specified in the proviso, violates the Act of Congress.

IX.

History of the act on its passage through Congress.

As shown above, the Act of 1910 was purely an Act requiring publicity as to campaign contributions and expenditures, and did not undertake to place any limit upon such expenditures. The amendatory Act of 1911, as introduced in and passed by the House, did not attempt to do more than strengthen the provisions for publicity. It did not limit either contributions or expenditures. In fact, it was aimed alone at the defect in the original Act, which did not require a report of contributions and expenditures until after the election. It remedied this by requiring reports to be made both before and after the election. It did not, any more than the original Act, require a report of expenditures made in connection with primary elections or conventions. The discussion in the House showed a sentiment in favor of leaving these latter matters to State legislation. It followed the original Act in requiring reports from political committees, as therein defined, only when they sought to influence elections in more than one State. (47 Cong. Rec. Pt. 1, pp. 254, 265–

268.) In the Senate the amendment making the law apply to primary elections was first introduced by a committee report. It was the subject of much debate, but was finally adopted. (47 Cong. Rec. Pt. 3, p. 2312.) When the bill went back to the House, it was further amended so as to include nominating conventions and so as to except from the limit fixed the personal expenses of the candidate. (47 Cong. Rec. Pt. 4, p. 3286.) The Act as finally passed was framed by the conference committee and was, to some extent, a compromise between the views of the Senate and those of the House. (47 Cong. Rec. Pt. 4, pp. 3882–3883.) The debates show that the constitutionality of an Act applying to primary elections and nominating conventions was called in question. There was, however, no disagreement as to the meaning of the Act as it finally passed. It allowed expenditures for personal expenses, as specified in the proviso, without limit, and placed a limit upon all other expenditures made by or caused to be made by the candidate.

X.

It is said in behalf of plaintiffs in error that it was manifestly not the intention of Congress to fix a limit upon the total amount raised by voluntary contributions which could be expended in a campaign either for nomination or election.

This is true to an extent. The Act requires a report to be made by political committees, which are defined to be committees of political parties

seeking to influence congressional elections in more than one State, but no limit is placed upon the amount which such committees may expend. When, therefore, a candidate has been nominated, and a political committee, as thus defined, is seeking to promote his election, he is not held responsible for such funds as may be raised and expended by the committee. The only requirement is that, for publicity purposes, the committee shall make reports. Again, no report is required of a committee even of a political party seeking to promote the election of a candidate or candidates in a single State, nor are individuals, except the candidate himself, required to make such reports unless seeking to control the election in more than one State. After a candidate is nominated, therefore, the provisions limiting expenditures have a very restricted application. It is customary for committees of all political parties to take charge of the campaign for the election of their candidates. The Act places no limit upon the amount which they can thus spend. They may raise as much money as they choose, and, so far as this law is concerned, may spend it for any purpose they choose. The only restriction is that, if they are seeking to influence the election in more than one State, they must make reports. Otherwise they are without restrictions from this law.

The Act then applies to the candidate and says to him, It is to be assumed that the political committee of your party will take care of the general

expenses of the campaign, but it is entirely proper and desirable that the people should have every opportunity of judging of your qualifications for the office which you seek, and hence you may spend, without limit, money for the purpose of giving them this opportunity, the only restriction being that the amounts you spend or cause to be spent shall be limited to your personal expenses. If the Act stopped here, it would not be a very stringent or oppressive law, but it goes further and recognizes that the legitimate expenses of the campaign, outside of the candidate's personal expenses, may not be provided by a political committee, and hence it says to the candidate, in addition to your personal expenses, you may also spend or cause to be spent for other campaign purposes the amount which the laws of your State would permit you to expend for all purposes, including personal expenses, provided it does not exceed $10,000. In the present case it will be seen that the law is very much more liberal than the law of Michigan, which makes no exception as to the expenses that must be included in the amount limited.

It is also said that this statute bears upon the candidate, and that it must not be regarded as intended to encroach upon the freedom of citizens to support a candidate by voluntary contributions and to have the moneys thus contributed legitimately expended in his behalf. This is true.

Except in the case where an individual contributes money for the purpose of influencing elections in more than one State, he is not even required to make a report. There are no prohibitions in the Act directed against the individual citizen or voter and no penalties imposed for anything he may do. He is entirely free, so far as this Act is concerned, to do anything he chooses to promote the election of any candidate whom he desires to support. But, free as he is, it does not follow that the candidate who causes or induces him to furnish money for campaign purposes is not guilty of an offense under this Act.

The charge of the court makes it perfectly plain that the candidate does not become responsible for the contributions or use of any money whatever by any person who acts of his own accord and independently of the candidates. The District Judge very carefully limited the candidate's responsibility to the raising or using of funds which he has caused or induced to be contributed and used. He went further and instructed the jury that knowledge on the part of the candidate that money was being raised and used in support of his candidacy, or even acquiescence in such expenditure, would not make him an offender against the law. There is nothing in the Act, as construed by the trial judge, which in any way encroaches upon the right of the individual voter to do what he pleases in support of any candidate.

It is only when the candidate participates in causing to be done the things which the Act prohibits him to do that the jury was told he would be guilty.

In the case of primary elections, which are contests within a party, the political committees of the various parties are not supposed to aid or promote the candidacy of either party. It was when the application of the law was extended to primary elections and nominating conventions that the proviso permitting personal expenses without limit to be incurred was introduced. The reason is obvious. A candidate in a primary, not having a political party or political committee behind him, must himself bear the expenses which, in the case of a nominated candidate, are usually borne by the party itself, and hence the candidate was allowed to pay his personal expenses, and, in addition, to cause to be used an additional sum for campaign purposes not in excess of the amount which the State law would permit him to use for all purposes.

It may also be said that the limitation in the first proviso as to the amount which a candidate may give, contribute, expend, use, or promise has the result, in the case of a candidate who has been nominated, of limiting the amount which he may contribute to the political committee managing his campaign. He is permitted to pay his personal expenses as specified in the second proviso, and, in

addition, he may contribute to his political committee an amount not in excess of the amount which the laws of the State permit him to spend for all purposes. We can not agree, however, to the statement of counsel that—

> Of course Congress had not the slightest notion that these amounts would be a proper limit of all contributions and expenditures that might be made in such campaigns, and hence Congress in its proviso expressly fixed these amounts as those which the "candidate" might "give, contribute, expend, use, or promise." The limit in the proviso of the Federal statute is obviously a limit of the amount which may be contributed, expended, or promised by the candidate himself, and has no reference to the expenditures of moneys voluntarily contributed by others. (Brief, pp. 71–72.)

This denies all significance to the words "or cause to be" in the first sentence quoted above. Moreover, it is in no sense a sound proposition unless it be understood that moneys which a candidate has induced or caused another to contribute are not voluntarily contributed by such others. The theory of counsel seems to be that Congress was concerned, in passing this Act, to see that expenditures as they have customarily been made in political campaigns should not be curbed or restricted. On the contrary, the purpose was to place restrictions and limitations upon these very things. It has generally been supposed that, if

money is to be expended in a campaign, it is desirable that it shall be furnished by the candidate himself, who will thus be free from campaign obligations, rather than that it be procured from powerful interests, who may desire a return in the way of legislation. If, therefore, as insisted in the brief, the sole result of this Act is to place a limitation upon the amount which the candidate himself may spend, but to leave him free to accept, or to have accepted for him, contributions from others without limit, and to have these used for the purpose of securing his election, the passage of the Act was an idle ceremony. It is submitted that no such construction can be put upon the Act without doing violence to both its letter and its spirit.

XI.

The statute as construed by the court below does not have the sweeping effect ascribed to it in the brief for plaintiffs in error.

Complaint is made of that part of the charge in which the judge said:

> But it is sufficient to constitute a violation of this statute if the candidate actively participates in doing the things which occasion such expenditures and use of money and so actively participates with knowledge that the money is being expended and used. (Rec. pp. 940-941.)

It is said that actively participating in doing the things which occasioned such expenditures is nothing more than a roundabout way of describing

campaigning. A number of illustrations are used in support of the contention that Congress could not have intended the Act to be so sweeping. But the Act as construed by the learned District Judge does not have the effect imputed to it. It must be remembered that the judge distinctly told the jury that mere knowledge of or acquiescence in expenditures on the part of a candidate would not make him guilty under the Act. Counsel say that if he speaks he must speak in halls that must be hired, and the expenditure for these halls alone may exceed the limit assigned to him by the statute for his personal outlay. It is true that the hiring of halls for the purpose of making speeches is not one of the things which the proviso permits the candidate to do without including the expense in the total which he is permitted to spend or cause to be spent.

It may be assumed, therefore, that if the candidate himself hires a hall, or procures some one to hire it for him, this would be an expense caused by him and for which he must account in determining whether he has exceeded the limit allowed. But the judge told the jury that mere acquiescence in expenditures of this kind would not make the candidate responsible. There is no reason, therefore, under this instruction why the voters or his friends in a particular town should not hire a hall and invite him to speak in it. He would then be participating in the *campaign*, of course,

but it was never intended that he should not do this. He would not be actively participating in the *hiring of the hall*, the thing occasioning the expenditure, but, at most, would be merely acquiescing in it, and therefore the expense would not be included in the amount for which he must account. After he has been nominated, the political committee in charge of his campaign may spend any amount it chooses to hire halls for this purpose. Before his nomination he must account for such expenditures only when he has himself caused the halls to be hired and not when he has merely acquiesced in the wish of the voters that he speak in halls voluntarily hired by them. The case used as an illustration, therefore, does not come at all within the rule laid down by the trial judge.

Again, it is said that mailing is an expensive matter and that it costs a large sum to put one circular in the hands of every voter throughout the State. It is then said that if the candidate wrote a speech and gave it to his committee to circulate, knowing that the expense of mailing the speech to the voters would exceed the amount limited by the statute, he would, under the instruction of the District Judge, be guilty of a crime. But, among his personal expenses enumerated, as to which there is no limit, are included stationery, postage, writing or printing (other than in newspapers), and distributing letters, circulars, and

posters. If, therefore, a candidate desires that his speech shall be distributed among the voters of the State he has the right to have it printed and mailed to every such voter and not one cent of the cost is to be taken into account in determining whether he has exceeded the limit allowed. He may expend, without limit, the amount necessary for the printing, for writing the post-office addresses of the voters, for the postage, and for depositing the speeches in the post offices. It is not expected, of course, that he shall personally write out the speech or the post-office addresses any more than that he shall personally do the printing. What he is allowed to do is to pay the cost of having these things done. Hence, the illustration used is not in point, because under the rule laid down by the trial court no offense would be committed. It may be merely said in passing, however, that in allowing him to pay for the cost of printing one exception was made—that is, for printing in newspapers. And in this case many times the amount fixed by the statute was expended for printing advertisements and other matter in newspapers. If, in the expenditure of money for this purpose and for other purposes not included by the proviso under the head of the candidate's personal expenses, the candidate himself advised how it should be expended, assisted in its expenditure, or procured its expenditure, he was within the terms of the statute if the language

employed is to be given any effective meaning at all, and it is only under these conditions that the District Judge instructed the jury that the plaintiffs in error would be guilty.

XII.

The conviction must be sustained unless the act of Congress upon which it is based is unconstitutional, or unless some reversible error, with respect to matters not yet mentioned, was committed on the trial.

It is apparent, we think, that the court below properly construed the statute, and that under his construction there was ample evidence to support a conviction in this case. There remain two inquiries: (1) Is the Corrupt Practices Act, as applied to a candidate in a primary election, constitutional; (2) was there any reversible error committed by the trial judge at the trial.

XIII.

The primary election or nominating convention is now a part of the established process or manner of holding elections in practically all the States.

The present system of holding elections in the various States has been one of gradual development. Originally, it was a very simple matter. The voter went to the polls and deposited a ballot on which were written or printed the names of the candidates for whom he voted. Within the recollection of many of us still living, he was very generally permitted to do this without being required to

register prior to the day of the election. Very generally, however, registration in advance of the election is now required, so that it may be known before election day who is entitled to vote. This is merely a method adopted to safeguard the election. If a man is not registered, he can not vote. If he has registered, time elapses between the registration and the election in which those interested may ascertain whether he is a legal voter and was entitled to register; and, if not, his vote may be challenged, or, if the fraud is not discovered until after the election, he may be prosecuted. In the old days the voter could be accompanied by those who sought his vote to the ballot box itself. The purchase of votes was easy because, as a condition of the purchase, the purchaser could require an open ballot to be voted and could see it put in the ballot box.

As another safeguard of the election, modern laws in most of the States provide for a secret ballot. The voter goes into a booth alone, and marks his ballot, and deposits it, folded, in the ballot box. This makes the purchase of votes difficult, because the purchaser can not be assured that the voter votes as he has agreed to vote. Under the system now in vogue in most of the States the voter can not furnish his own ballot. It is furnished to him by the election officer, with the names of all candidates printed on it, and he marks those for whom he desires to vote. He can not vote any

other ballot than that furnished him. The most important part of the modern method or manner of voting, therefore, consists of the manner in which names are printed on the official ballot, or the method by which one can have his name so printed. This has from the beginning, both in the States and the Federal Government, been generally a government by political parties—that is, in most elections the members of each political party select in some way their candidates. When it comes to the election, it is usually simply a choice between the candidates so selected. In quite a number of the States one of the political parties is so completely dominant that a nomination by that party is equivalent to an election. In these States no matter how stringent the regulations governing the election or how fair the election itself may be, but little is accomplished in the way of honest elections if the nominations are secured through fraud, corruption, or other improper means. In such States, where the will of the people is thwarted through corrupt means, the corruption is necessarily in the securing of nominations. If these have been unfairly or improperly secured, it can not be said in any practical sense that there has been a fair or honest election. But since most candidates are named in some way by political parties, when the legislatures of the various States came to the conclusion that one of the proper ways of conduct-

ing an election was to provide an official ballot with the names of candidates printed on it, it was natural to provide that the names of persons nominated by political parties should be printed on the ballot, and this method has been very generally adopted. Having done this, the legislatures have made the nomination of candidates a part of the general process of conducting elections.

The next and natural step was to undertake, by legislation, to see that these nominations themselves should be fair and free from corruption. This was necessary if the integrity of elections themselves was to be protected. Hence, we find that most if not all the States have now adopted general laws requiring that nominations shall be made at legalized primary elections. The regulations governing these primaries are framed much like the regulations governing general elections. Offenses against the primary law are punished in the same way as offenses against registration laws or the laws governing the general elections. The result is that if any intelligent man should be asked to-day in what manner Senators and Representatives are elected in his State he would say that a primary election under regulations provided by the laws of the State is first held at which the various political parties nominate or select their candidates; that the names of the candidates so selected are printed on the official ballot, which, on the day of the general election, is furnished to and

voted by every legal voter who has previously registered in accordance with the law and who desires to vote. In other words, in the development of the system of election laws—at least, in most of the States—it has come about that the nomination of candidates is as much a part of the manner of holding elections as is the registration of voters in advance of election day. It is so understood in common parlance and it is so recognized by the laws of the various States.

XIV.

A Senator being an officer of the United States holding an office created by the Constitution and constituting a part of the Federal Government, all matters relating to his election belong to the Government of the United States, which has the same power over them that the States have over matters relating to the election of State officers, unless restricted by the Constitution itself.

It is assumed in the argument in behalf of the plaintiffs in error that the only power which Congress has over the election of Senators and Representatives is derived from Article I, Section 4, of the Constitution, relating to the times, places, and manner of holding such elections. This is by no means true. That section, on the contrary, contains only a grant of power to the States to be exercised subject to the control of Congress, in the exercise of a power which would be its, even if this section was not in the Constitution.

The Government of the United States is not a confederation of States. It is a government or-

dained by the people of the United States and, within the sphere of its powers, wholly independent of the State governments. A Senator or a Representative in Congress holds an office which was created by the Constitution. He is chosen not by the States but by that portion of the people of the United States who reside in the State in which he is elected. He is an officer not of any State but of the Federal Government. (*Lamar* v. *United States*, 241 U. S. 103, 112.) Unless, therefore, the Constitution itself indicates a contrary intention, his election is a matter which concerns only the Federal Government and in no way a State government. It would certainly be an anomaly if one government had the unrestricted power to control matters affecting the choice of the officers of another and entirely independent government. Control of matters relating to the selection of those who are to function as a part of a particular government would seem necessarily to inhere in that government itself. In his powerful opinion *In Ex parte Yarbrough* (110 U. S. 651), Mr. Justice Miller said, at page 657:

> That a government whose essential character is republican, whose executive head and legislative body are both elective, whose most numerous and powerful branch of the legislature is elected by the people directly, has no power by appropriate laws to secure this election from the influence of violence, of corruption, and of fraud, is a proposi-

tion so startling as to arrest attention and demand the gravest consideration.

If this government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the general government, it must have the power to protect the elections on which its existence depends from violence and corruption.

In Article I, Section 2, of the Constitution, it is provided that:

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Section 3 of the same Article provides that:

> The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

This latter section was changed by the Seventeenth Amendment to read as follows:

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

Thus, a Senator or Representative is chosen by that portion of the people of the United States residing in the State or district in which he is elected. When elected, he is the representative in the Federal Government of these people and performs no function in connection with State governments. It is true that the Constitution fixes the qualification of voters by reference to State laws. This does not mean, however, that the voter derives his right to vote from the State rather than from the Constitution of the United States. Mr. Justice Miller, in *Ex parte Yarbrough, supra*, at page 663, said:

> The States in prescribing the qualifications of voters for the most numerous branch of their own legislatures, do not do this with reference to the election for Members of Congress. Nor can they prescribe the qualification for voters for those *eo nomine*. They define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for Members of Congress in that State. It adopts the qualification thus furnished as the qualification of its own electors for Members of Congress.
>
> It is not true, therefore, that electors for Members of Congress owe their right to vote to the State law in any sense which makes the exercise of the right to depend exclusively on the law of the State.

At the time the Constitution was adopted there was, of course, no Government of the United States and no Federal law providing for the election of Members of Congress. It was necessary, therefore, that the Constitution itself should direct in what way the people of the various States should elect the first Congress. If, however, it had provided for the election of the first Congress and been silent as to future elections, it could scarcely be doubted that it would have, without any further provision of the Constitution, been left to Congress to make all necessary regulations for the election by the people of succeeding Congresses. This would undoubtedly have followed from the power conferred upon Congress in Article I, Section 8, as follows:

> To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

It would seem clear, therefore, that Congress must have exclusive power, under the Constitution, over all matters relating to the election of Senators and Representatives, unless something can be found in the Constitution itself which restricts the exercise of that power, and that this is the same power which the States have over matters relating to the election of State officers.

XV.

Whatever power the States have over matters relating to the election of Federal officers is not one of its reserved powers but is a power expressly conferred by the Constitution.

We are accustomed to say that all powers not delegated to the Federal Government are reserved to the States or to the people. From what has been said above, however, it is obvious that the power to exercise any control over matters relating to the election of Senators and Representatives is not one of the reserved powers of the States. In the very nature of things, it could not be. The States could not reserve a power which they never had. With respect to governmental powers, to be exercised within their own borders, they had the fullest powers of Government. So far as these powers were not taken away from them by the people of the United States and delegated to the Federal Government, they remained in or were reserved to them. But the powers which they possessed were the powers incident to their own government and not those which affected other governments. The power, therefore, to choose or to regulate the election of Senators and Representatives who were to become a part of a new and independent government had never been in them and can not be said to have been reserved to them by any general clause of the Constitution or any of the amendments thereof.

The States, as States, manifestly can have no part in the new government that was created unless expressly given some function to perform or some power to exert in connection with that government. This could be done only by the Constitution of the United States itself. It follows that any power which a State has over matters relating to the election of Federal officers is not one of its reserved powers, but must be found as a power expressly delegated by the Constitution.

XVI.

The only power conferred on the States by the Constitution over matters relating to the election of Senators and Representatives is expressly made subordinate to the power of Congress over the same matter.

This brings us to Article I, Section 4, of the Constitution, which is as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

And the Seventeenth Amendment makes the same provision with respect to Senators.

It can not be said that there is anything else in the Constitution which can be construed as conferring any power whatever upon the States to control matters relating to the choosing or election of Senators and Representatives. As seen above

when the Constitution was adopted, there was, of course, no Federal machinery for holding elections. It was, therefore, necessary to provide in some way for the election of the first Congress. The various States had systems of election under which they chose their own officers. The obvious plan was to take advantage of the election machinery which was thus already in existence in order to start the new Federal Government. In effect, what was done by Section 4 was to provide that the first Congress should be elected through the use of the election machinery of the various States, and that this method of electing Congressmen should continue, except as Congress might, from time to time, see fit to alter it or to supplant it with election machinery of its own. If, therefore, the power to make regulations relating to primary elections is included in the power to prescribe the manner of holding elections, the exercise of this power is subject to the control of Congress. Whatever power the States may exert over Congressional or Senatorial primaries, in the absence of action by Congress, may be exerted under the express provision of Section 4 by Congress whenever deemed necessary.

On the other hand, if, as insisted by counsel, the power to prescribe the manner of holding elections does not include any power over primary elections, it follows that the States have no power whatever to exert any control over senatorial or congressional primary elections.

XVII.

If Congress has no power to make regulations of the kind now involved, neither have States, and there is no power anywhere which can control and prevent excessive expenditures by candidates for senatorial or congressional nominations.

If we accept the contention that the power to prescribe the manner of holding elections does not include the power to regulate primary elections, then, as we have seen, the Constitution confers upon the States no power to regulate congressional and senatorial primaries, or even to punish corruption in connection with such primaries, and no such power exists in the States. If we also accept the further contention of counsel that Congress has no power to regulate such primary elections unless conferred by Article I, Section 4, no such power exists in Congress. The result would be that there is no power anywhere to exert any control over the expenditures of candidates for senatorial or congressional nominations. It is true that, under the method of choosing officers in this country, a nomination secured by fraud, corruption, or other improper means inevitably taints the election which follows and makes it impossible that the result of the election shall be fair and honest. A nomination which is bought, and results in the election of the nominee, puts into office a man who has secured his election to that office by the corrupt use of money just as surely as if he had purchased enough votes at the general election to secure his election. By the

terms of the election laws themselves, nominations determine whose names shall go on the official ballot which is furnished every voter. True, there may be provisions in the law under which a man who has not been nominated may be entitled to have his name printed on the ballot. It is frequently provided that this may be done upon a petition by a given number of voters, but it is a rare case, indeed, that any person whose name goes on the ballot in this way, along with those who have been regularly nominated, is elected. Even in such cases the signing of the petition practically amounts to a nomination. Under the contention now made, neither the State government nor the Federal Government could make it a crime for a candidate to hire enough voters to sign his petition to get his name on the ballot.

Practically, and to all intents and purposes in many States, the most important and decisive act in the choosing of officers is the nomination. And yet we are told that when it comes to choosing Members of Congress both the State government and the Federal Government are so impotent that they can not protect the elections, upon the purity and fairness of which the existence of the Nation itself depends, against this particular species of fraud and corruption by which elections are actually controlled. This does not overstate the argument. For, as we have seen, if Congress must find its power in Section 4, and if that section does not confer any power over matters relating to pri-

mary elections, then there is no power anywhere to prevent the kind of corruption referred to. Surely, such a conclusion will not be reached unless clearly and unavoidably required by the Constitution. The securing of a nomination, and thereby an election, as United States Senator by the use of $200,000 or more in any State is a scandal and a disgrace. That such conduct is beyond all governmental control or punishment ought not to be held, except under the sternest necessity of Constitutional law.

XVIII.

The States undoubtedly have the power to regulate primary elections for the selection of candidates for State offices, because such regulations are necessary to protect the integrity of elections themselves. For the same reason Congress has the power to regulate primary elections for choosing candidates for Federal offices.

The reproach and danger to republican institutions sure to come from the excessive use of money in elections have become so generally recognized that most of the States have adopted corrupt practices acts for the purpose of preventing it. It has been so obvious that this evil is as potent and as dangerous in connection with securing nominations as in controlling final elections that these laws have very generally been extended to primary elections and nominating conventions. These laws are primarily enacted, of course, for the purpose of regulating the election of State and local officers.

They have been applied to congressional and senatorial nominations and elections incidentally and only because of the provision of the Constitution that, in the absence of Federal regulation, the manner of holding these elections shall be as prescribed by State law. The power of the States to adopt such laws with respect to their own elections is undoubted. It is inherent in the right of self-preservation. A government that has not all the power necessary to enact such measures as will protect its elections from fraud or corruption exerted directly or indirectly is too impotent to be called a republic. In the matter of protecting its elections, the Federal Government has all the implied or inherent power of any government. We have seen that no power over such elections has been given to States which is not coupled with a provision that such power shall be subordinate to the will of Congress. We have also seen that Article I, Section 4, is not so much an express conferring of this power as it is a special provision for the exertion of that power with respect to certain matters. The Federal Government, therefore, has, independent of Section 4 and unrestricted by it, all the power to protect and keep pure its elections that the State governments have to protect and keep pure theirs. Unless, then, counsel are able to push their argument to its logical conclusion and urge that no State government has the power to regulate primary elections for the choosing of candidates for State offices,

their argument against a like power in Congress over primaries for the selection of candidates for Federal offices is without foundation.

XIX.

Ample authority to sustain this legislation is found in Article I, section 4, of the Constitution.

We have shown, we think, that Congress had the necessary power to enact this legislation independent of Article I, Section 4. We now propose to show that even if the necessary power must be derived from that section, and even if the word "elections" as there used is not construed as including primary elections, the law is still constitutional.

Like every other provision of the Constitution conferring power upon Congress or the Federal Government, this section must be read in connection with the last clause of Article I, Section 8, which confers upon Congress the power—

> To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

We have, then, an express provision that Congress may enact all laws which may be necessary to carry into effect the power conferred upon it to prescribe the manner of holding elections for Senators and Representatives, or to alter any regulations made on that subject by the States.

The learned trial judge in his opinion overruling the demurrer in this case has admirably stated the effect of Article I, Section 4. He said:

> Upon this branch of the case it is further and finally urged that, whatever may be the right of Congress to regulate general elections, it can not extend its authority to the control of conventions or primary elections for the nomination of party candidates for the office of United States Senator. Again, why not? Can it be possible that Congress may protect the political stream from pollution in its lower reaches but is helpless to prevent the dumping of filth and poison into the spring at its source? It has been definitely settled that Congress may reach back of the general election to the registration of voters for that election. But the registration of voters is not as essential to the election as the nomination of candidates. An election may be held without registration, but not without candidates. Theoretically, perhaps, an election without previous nominations is possible, but, practically, it is impossible. Theoretically, also, a man may be elected to the United States Senate without having been previously nominated for that position, but, in fact, he can not. The law deals with practical realities and not with theoretical impossibilities. In actual practice, the nomination of candidates for public office is as essential to an election as are

polling places, ballots, ballot boxes, and inspectors. It is no longer open to dispute that Congress may protect and control the latter; by the same reasoning, why not the former? It is common knowledge, and, therefore, not to be blindly ignored by courts, that, in a majority of the States of the Union, under normal conditions, the nomination for the office of United States Senator by the dominant political party is, in fact, the election, and that the subsequent ratification at the polls is little, if any, more than mere formality. In every State the nomination is a necessary prerequisite to the election.

It must be remembered that the Constitution grants to Congress, in express terms, the power to regulate the manner of holding elections for its own members and also grants to the same branch of the Government, in like express terms, the further power to make all laws necessary and proper for carrying into execution the first-named power. * * * No exact definition of the word "election," which will meet all requirements, under all circumstances and conditions, is possible. Its meaning, when used in state constitution or statute, of course, will depend in a large measure upon context and the purpose to be served. To hold that the phrase of the Federal Constitution "Manner of holding elections for Senators and Representatives," includes not only the election itself, as a whole, but also the means and processes

> which may be employed in the election accords with both reason and controlling precedent. A primary election may not, in and of itself, be an election within the technical meaning of that term as used in the Constitution, but that, when employed, it is a necessary step in the process of the election can not be successfully denied; nor can it be denied that the regulation of the nominating or primary election has an important and direct bearing upon, and may be an essential part of, the regulation of the general election itself. (Rec., 15–17.)

This clear and convincing statement of the law is amply supported by decisions of this court.

It is said that until the passage of this Act Congress had never attempted to exercise any power over primary elections or nominating conventions. It is equally true that, until within recent years, no State had seen fit to enact statues for the purpose of throwing safeguards around nominating conventions or primary elections. It is also true that for a great many years after the Government was established Congress did not see fit to make any regulations relating to general elections themselves. In none of these cases, however, did the failure to act argue a want of power. When Congress did, after the Civil War, deem it necessary to enact regulations applicable to congressional elections, to prevent interference with the newly enfranchised negroes in their right to vote, and this same suggestion was made, this

court answered it in *Ex parte Siebold*, 100 U. S. 371, 388, by saying:

> If Congress has not, prior to the passage of the present laws, imposed any penalties to prevent and punish frauds and violations of duty committed by officers of election, it has been because the exigency has not been deemed sufficient to require it, and not because Congress had not the requisite power.

It is admitted that Congress has always had much more power over general elections for Members of Congress than it has even yet seen fit to exert. It might, if it had seen fit, in the beginning have required that congressional elections be entirely separated from State and local elections and held under regulations prescribed by an Act of Congress and by officers selected pursuant to such an Act. Even when it determined to leave the manner of holding these elections to be as prescribed by State laws, it might still have required that they be held on days on which State and local elections were not held. When it did not require this, it left the States free to hold State elections contemporaneously with congressional elections if they saw fit. The result is that State and congressional elections are usually held on the same day and by the same officers of elections. If, however, a State chooses to do this, the congressional elections must be held in accord with any regulations which Congress has seen fit

to prescribe. And it can not be said that these regulations encroach upon the rights of the States by thus applying to State elections. This was made clear in *Ex parte Siebold*, *supra*, at page 393, where it was said:

> In what we have said, it must be remembered that we are dealing only with the subject of elections of representatives to Congress. If for its own convenience a State sees fit to elect State and county officers at the same time and in conjunction with the election of representatives, Congress will not be thereby deprived of the right to make regulations in reference to the latter. We do not mean to say, however, that for any acts of the officers of election, having exclusive reference to the election of State or county officers, they will be amenable to Federal jurisdiction; nor do we understand that the enactments of Congress now under consideration have any application to such acts.

Prior to the passage of the laws under consideration in the *Siebold* case, Congress had, perhaps, deemed it necessary to exercise its power under Section 4 only twice, and then, in effect, only to make alterations in the manner of holding elections as prescribed by State law. In our early history, some of the State laws provided that the whole number of Congressmen to which a State was entitled should be voted for throughout the State. To correct this, Congress passed a law

requiring congressional elections to be held only in districts. Again, Congress deemed it necessary or proper that congressional elections throughout the country should be held on the same day, and hence enacted a law fixing a day upon which such elections should be held in all the States. With these exceptions, the prescribing of laws regulating the manner of holding elections was left to the States.

In the meantime, the States themselves were making progress in the development of a system of election laws calculated to bring about honest elections. Congress might itself, before any action along that line had been taken by the States, have required that voting in congressional elections should be by secret ballot, and could itself have adopted this method of voting. The States, however, were the pioneers in this line. If Congress had deemed this an unwise manner of holding elections, it could have provided that congressional elections should continue to be held in the old way. Apparently it acquiesced in the wisdom of the new State laws. The same is true of the State laws requiring registration of voters in advance of the election. Congress was willing to acquiesce in these new measures, but this did not mean that it surrendered its power to alter or change them at any time for the purpose of correcting defects.

The modern method of voting by secret ballot involved the printing of an official ballot to be fur-

nished the voter. And this required some method of determining what names should be printed on the ballot. It was usually provided that a candidate could procure his name to be printed by a proper certification of the fact that he had been nominated by some political party. This brought the process of nominating candidates into a more intimate relation with the election itself than had previously existed. It was at once apparent that, if a candidate could not be punished for fraud, corruption, or violence used in securing his nomination, the election itself could not be said to be free from the taint of these vices. If a nomination secured the right to a place on the ballot, it was necessary to protect the integrity of the election, that that nomination itself should not be bought or secured by fraud. Hence, the next step was to throw safeguards around the means of securing nominations and thereby a place on the official ballot. The result has, very generally, been the enactment of statutes requiring that, in order to entitle a nominee to have his name on the ballot, his nomination must have been made in a primary election called and held under provisions of the law very similar to those regulating general elections and with much the same safeguards thrown around them. This was a natural development of the system of elections now prevailing in this country.

As the system was developed by the States, Congress was content merely to acquiesce. When the

Act now in question was passed, however, it evidently thought that some general regulations enacted by it were necessary to properly protect the election of Members of Congress. It was apparent that the success of the experiment in primary elections itself depended very generally upon laws which would properly curb and restrain candidates in the lavish expenditure of money. If candidates were left free to spend money without limit, even for such purposes as are ordinarily legitimate, for the purpose of securing a nomination in a primary election, those elections would soon come to be the instrument by which every man would be debarred from becoming a successful candidate, unless he was able and willing to spend a fortune, or unless he could enlist some powerful interests which would furnish the necessary money. Neither contingency was to be contemplated with equanimity. It may well be supposed that Congress was moved to enact this legislation because it foresaw the demoralizing effects which would result from just such extravagant and lavish expenditures of money as was witnessed in the Michigan campaign, out of which this case arises.

At any rate, Congress concluded that the purity and honesty of congressional elections needed some help from it. This court had long ago pointed out the two great sources of danger to the Republic which lurked in the manner of holding congressional elections. In *Ex parte Yarbrough, supra,*

at page 667, the court was dealing with cases in which violence had been resorted to to prevent men from going to the polls and voting, but it took occasion in concluding its opinion to say:

> If the recurrence of such acts as these prisoners stand convicted of are too common in one quarter of the country, and give omen of danger from lawless violence, the free use of money in elections, arising from the vast growth of recent wealth in other quarters, presents equal cause for anxiety.
>
> If the government of the United States has within its constitutional domain no authority to provide against these evils, if the very sources of power may be poisoned by corruption or controlled by violence and outrage, without legal restraint, then, indeed, is the country in danger, and its best powers, its highest purposes, the hopes which it inspires, and the love which enshrines it, are at the mercy of the combinations of those who respect no right but brute force, on the one hand, and unprincipled corruptionists on the other.

Here was a solemn warning that, if the time ever comes when elections are controlled by the free use of money, when men are elected to high offices merely because they are able to command and use large amounts of money, the country will be in serious danger. Could a better illustration of what the court had in mind be imagined than this very case, in which a man, confessedly unknown to the voters of his State, and who, his

best friends admitted, could not possibly be nominated or elected by them without the expenditure of vast sums of money, has actually been nominated and, as a direct result, elected to the United States Senate by the lavish use of hundreds of thousands of dollars?

It is said that the Constitution does not mention primary elections and did not have them in contemplation. If this statement be accepted, it does not follow that the power to enact this legislation was wanting. What the Constitution did contemplate was that Congress should have the power to effectively protect the purity and the integrity of congressional elections. The same argument was made when, after the Civil War, Congress enacted laws to protect elections and prevent the intimidation of voters, and, as a part of the law, provided for the appointment of officers who should have authority to keep the peace at the election. It was contended that whatever power Congress might have over the elections themselves, the power to maintain the peace was one of the reserved powers of the States and could not be exerted by Congress. But in *Ex parte Siebold*, *supra*, at page 396, the court said:

> The argument is based on a strained and impracticable view of the nature and powers of the National Government. It must execute its powers, or it is no government. It must execute them on the land as well as on the sea, on things as well as on persons. And to do this it must necessarily

have power to command obedience, preserve order, and keep the peace; and no person or power in this land has the right to resist or question its authority, so long as it keeps within the bounds of its jurisdiction. Without specifying other instances in which this power to preserve order and keep the peace unquestionably exists, take the very case in hand. The counsel for the petitioners concede that Congress may, if it sees fit, assume the entire control and regulation of the election of representatives. This would necessarily involve the appointment of the places for holding the polls, the times of voting, and the officers for holding the election; it would require the regulation of the duties to be performed, the custody of the ballots, the mode of ascertaining the result, and every other matter relating to the subject. Is it possible that Congress could not, in that case, provide for keeping the peace at such elections and for arresting and punishing those guilty of breaking it? If it could not, its power would be but a shadow and a name. But, if Congress can do this, where is the difference in principle in its making provision for securing the preservation of the peace, so as to give to every citizen his free right to vote without molestation or injury, when it assumes only to supervise the regulations made by the State, and not to supersede them entirely? In our judgment there is no difference; and if the power exists in the one case it exists in the other.

In *Ex parte Yarbrough, supra*, the court discussed the scope of the power of Congress under Section 4 of Article I, and held, in effect, that the power was ample to protect congressional elections from any form of threatened violence and corruption, saying, at page 658:

> If it has not this power it is left helpless before the two great natural and historical enemies of all republics, open violence and insidious corruption.
>
> The proposition that it has no such power is supported by the old argument often heard, often repeated, and in this court never assented to, that when a question of the power of Congress arises the advocate of the power must be able to place his finger on words which expressly grant it. The brief of counsel before us, though directed to the authority of that body to pass criminal laws, uses the same language. Because there is no *express* power to provide for preventing violence exercised on the voter as a means of controlling his vote, no such law can be enacted. It destroys at one blow, in construing the Constitution of the United States, the doctrine universally applied to all instruments of writing, that what is implied is as much a part of the instrument as what is expressed. This principle, in its application to the Constitution of the United States, more than to almost any other writing, is a necessity, by reason of the inherent inability to put into words all derivative powers—a difficulty which the

> instrument itself recognizes by conferring on Congress the authority to pass all laws necessary and proper to carry into execution the powers expressly granted and all other powers vested in the government or any branch of it by the Constitution.

The court then said that there was no express authority in the Constitution to pass laws to punish theft or burglary, but repudiated the idea that the power to protect the Treasury or the mails of the United States, by punishing such theft or burglary, did not exist.

Counsel in this case, as in the *Siebold* case, admit that Congress, if it sees fit, may assume entire control and regulation of the election of Representatives and that this includes the appointment of the places for holding the polls, the times of the voting, and the officers for holding the election, as well as the custody of the ballots, the mode of ascertaining the result, and every other matter directly connected with the final election itself. They admit that it is now beyond question that Congress may enact such laws as are necessary to prevent the intimidation of voters for the purpose of keeping them away from the polls. They will not deny the power of Congress to punish a candidate for giving money to a voter on the day of the election for the purpose of influencing his vote. Presumably, they will not deny that this power would extend to the purchasing of a vote at any time, whether on the day of the elec-

tion or six months prior thereto. Apparently, they do not question the power of Congress to limit the amount which a candidate, after nomination, may contribute to the campaign fund. None of these things are expressly mentioned in the Constitution. They are within the power of Congress only because they are necessary to effectively prescribe the manner in which Members of Congress shall be elected. Can it be said that the power of Congress is any less to grapple with conditions which have grown up and under which it finds it possible for candidates to accomplish the same baneful results by resorting to corrupt practices for securing a nomination at a primary election held under the laws of a State and which nomination entitles them to places on the official ballot and often insures their final election? It can not be said that this is beyond the power of Congress because it does not occur on the day of the election. The registration of voters does not occur on the day of the election and is no more a part of the election than is the nomination of candidates. But it is so related to the election that no one would doubt the power of Congress to require or regulate it or to dispense with it or to punish fraudulent registration. The nomination of candidates under a legalized primary is the first step which the law provides looking to the making up of the official ballot to be used on the day of election. It is certainly just as intimately related to the election and

has as direct a bearing upon it as the registration of voters. Corruption in securing it taints the final election just as much as fraud in the registration of voters. If one is within the power of Congress, because a necessary or proper means of protecting the election itself, the other must be equally so.

Congress has acquiesced in the plan by which the names of the candidates who are successful in the primary election go upon the official ballot. It would scarcely be doubted that Congress has the power to make it a criminal offense for a candidate to bribe the officer charged with the duty of having the ballots printed to place his name on the ticket as a nominee when he has not been nominated. Upon exactly the same principle, it would be within its power to prescribe punishment for the same candidate if he should attempt to get his name on the ballot by bribing voters to vote for him in the primary election. Until quite recently Congress had not passed a law of this kind, evidently assuming that such flagrant offenses as these may be left to punishment under the State laws. But it is universally recognized that the lavish use of money in elections always tends to corruption and usually amounts, at least, to the indirect purchase of influence, even though the actual bribery of voters or officials may not be resorted to. If Congress may provide for the punishment of candidates who resort to bribery in

a primary election as the means of getting their names on the official ballot at the general election, it is equally within its power to provide punishment for those who attempt to accomplish the same result, and thus control the general election by the excessive use of money with all its corrupting influence and effects. And this is what it has done. It has left the manner of electing Senators and Representatives to be prescribed by State laws, including the provisions for primary elections, and has been content merely to add to these laws a provision of its own limiting the amount which a candidate may use, or cause to be used, over and above his personal expenses, in the effort to secure a nomination and election to Congress. Plainly, this is within its power to make regulations for the protection of congressional elections. It is not claimed that Senator Newberry bribed either voters or officials, or intended that they should be bribed. It is not necessary to show that any of the conspirators resorted to such practice. The charge is that they conspired together to violate the law by using money in amounts which Congress has deemed necessarily corrupting and has prohibited.

It is said that if this legislation be treated as a regulation of the candidate rather than of the election, no reason can be suggested in support of its validity. It regulates the candidate only so far as his conduct bears upon the election. Laws providing punishment for the bribery of voters,

for fraudulent registration, for intimidation of voters, are none the less regulations of the manner of holding elections because they act upon and restrain the conduct of candidates. And the same is true of this law which forbids the use of an excessive amount of money to control nominations and the resulting elections.

The rule laid down in the decisions of this court, from which we have quoted, that Congress is invested with the broadest power to enact legislation deemed necessary to protect the integrity of congressional elections, openly through violence or insidiously through corrupting influences, has never been departed from. On the contrary, in the recent case of *United States* v. *Gradwell*, 243 U. S. 476, it was expressly reaffirmed when it was said, at page 482:

> Whatever doubt may at one time have existed as to the extent of the power which Congress may exercise under this constitutional sanction in the prescribing of regulations for the conduct of elections for Representatives in Congress or in adopting regulations which States have prescribed for that purpose has been settled by repeated decisions of this court.

The court, in the same opinion, makes it clear that the power given to Congress was intended to be the absolute power to control, when necessary, the method of selecting Members of Congress, because this was deemed necessary to the assured

safety of the Republic. Mr. Madison was quoted, at page 484, as follows:

> It was found impossible to fix the time, place, and manner of election of representatives in the constitution. It was found necessary to leave the regulation of these, in the first place, to the state governments, as being best acquainted with the situation of the people, subject to the control of the general government, in order to enable it to produce uniformity and prevent its own dissolution. * * * Were they exclusively under the control of the state governments, the general government might easily be dissolved. But if they be regulated properly by the state legislatures, the congressional control will very probably never be exercised. The power appears to me satisfactory and as unlikely to be abused as any part of the constitution.

And Mr. Hamilton (pp. 484–485):

> They [the convention] have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations, which, in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory, but they have reserved to the national authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety.

Manifestly, this provision of the Constitution grew out of the conviction that it would be suicidal

for the new government to commit to any other government a controlling power over the choosing of its officers without reserving to itself a supervisory power. For a State to arrange its election laws by providing for two elections, the first for the purpose of reducing the number of candidates and the second for the purpose of choosing between the surviving candidates, is, in many States, for all practicable purposes, equivalent to choosing the officials in the first or primary elections. If it be said that Congress has the fullest power over the second or final election, but is without power to control or regulate in any way the first or primary election, then, in such States, the election of Members of Congress has, in truth, been committed to regulation by the States and entirely removed from the control of Congress. And what becomes the power of self-preservation intended by this section to be vested in the Federal Government? Certainly to what extent the States may regulate such primary elections Congress may, to the same extent, exert a supervisory power. It is true Mr. Justice Clarke, in the *Gradwell* case, said, in effect, that whether primary elections were without the regulatory power of Congress was an open question. But this was a question not necessary to be decided in that case, and the court expressly refrained from deciding it, and doubtless from giving it serious consideration. When it is considered in this case, and particularly in the light of the cases too numerous to be cited, but

which will readily occur to the court, in which statutes dealing with matters not mentioned in the Constitution, but deemed necessary for the efficient exercise of some granted power, we confidently submit that there is no valid constitutional objection to the legislation now involved.

XX.

The State cases cited by counsel are not in point.

Certain decisions of the State courts (e. g., *Ledgerwood* v. *Pitts*, 122 Tenn. 570; *Montgomery* v. *Chelf*, 118 Ky. 766; *State* v. *Taylor*, 220 Mo. 619; *State* v. *Nichols*, 50 Wash. 508; *Gray* v. *Seitz*, 162 Ind. 1; *State* v. *Erikson*, 119 Minn. 152) are cited as authority that the word "elections" in Section 4 of Article I does not include a nominating primary. These decisions, however, should be carefully considered, both as a whole, and as to the special point regarding which the word "elections" was of importance. They were all cases involving the constitutionality of legislation regulating primaries; and in every one of them the legislation was sustained. One of the objections made to this legislation was that it did not conform in certain of its details to specific constitutional provisions regarding "elections." The holding of the Courts merely was that the constitutional provision relied on was, *by its very nature*, inapplicable to a primary. For example, the Constitution of a State provides that every male citizen 21 years of age shall be entitled to vote at

every "election." Since the primary is necessarily held before the election, to apply this provision to the primary would exclude those persons who reached 21 years between the primary and the election. Necessarily, such a provision could not apply to the primary, and this was all that was held in the cases referred to.

This is not a holding that the word "elections" in a constitutional provision which (as plaintiffs in error claim) contains the sole grant of power over the subject shall be construed, like a penal statute or an exception, so as to limit the power of the legislature to the final election, and restrain it from dealing in any way with the nomination of candidates. No such strict construction would be placed even on the charter and by-laws of a corporation or a club which conferred on the directors or governors the power over elections. An election necessarily involves candidates between whom to elect. If there be but one candidate, there is no election, and if there be a thousand, the election decides nothing. The very word "election," therefore, calls to the mind the idea of a candidate who has in some way succeeded in presenting himself to the suffrages of the electors under rules which permit a fair and actual choice. This Court can not, under its long-established rule of interpreting constitutions, do other than give a liberal construction to the word "elections" to carry out the main end of the Constitution, viz, to establish an honestly representative legislature.

Counsel for plaintiffs in error in their Brief attempt to get the benefit of the argument that the Federal Corrupt Practices Act is an interference with the power of the States over the subject, without directly committing themselves to the proposition that the legislatures of the States have power to regulate nominations to the offices of Senator and Representative and to punish corrupt practices in connection therewith. The reason for this is that counsel find themselves in a dilemma from which there is no escape. *The power of Congress over elections under Section 4 of Article I is exactly equivalent, though paramount, to the power of the State legislatures. What power the latter have, the former has. Vice versa, if Congress have not the power, neither have the State legislatures. The power, therefore, if not vested in Congress, is not vested in any body. Although, as has been shown above, the State legislatures have ample power to pass statutes regulating State primaries or conventions, there is (on the theory propounded by plaintiffs in error) no power on earth which can regulate primaries or conventions dealing with nominations to the federal office of Senator or Representative.*

XXI.

Objections to the charge.

The main objection urged against the charge, namely, that it misconstrued the Act of Congress, has been sufficiently discussed. If the trial judge

correctly construed the Act, the argument already made disposes of the objection based upon that and also disposes of any contention based upon requests for instructions which were refused. These requests are set out in the record, but no argument is made in the brief in support of them, obviously for the reason that if the plaintiffs in error have failed to convince this court that the instruction construing the Act actually given was erroneous, the requests for contrary instructions were necessarily properly refused. The only other objection to the charge is to that part of it which is as follows:

> Counsel have also indulged in some comment concerning the criminal intent which is involved in a conspiracy. A criminal intent is one of the essential elements of an unlawful conspiracy. There must be an evil design and a wrongful purpose. A conspiracy can not exist without a guilty intent being then present in the minds of the conspirators. But this does not mean that the parties must know that they are violating the statutes of the United States. In order to warrant a verdict of guilty, the Government is not required to prove that the parties knew that some statute forbade the acts they were performing. Every person is presumed to know the law, and also to know to intend the natural and ordinary results and consequences of his acts and conduct. An unlawful or wrongful intent may be implied from the intentional doing

> of an unlawful act. Wrongful acts, knowingly or intentionally committed, can not be justified on the ground of innocent intent. To establish a conspiracy, to violate a law, or to commit an offense, it is only necessary to show an agreement to do the acts which constitute such violation or offense. The only question for you to pass upon is whether the defendants violated the law; not whether they had any knowledge that they were violating the law. (Rec., p. 943.)

Raising the same question, plaintiffs in error complain of certain rulings made in the progress of the trial. They complain of a remark made by the court to counsel for defendants when counsel was attempting to make, in substance, the above contention that defendants could not be guilty of a violation of the Corrupt Practices Act unless they were acquainted with the act, even to the extent of understanding its terms. (Rec., pp. 927-928.) The question of law was for the court and this was stated (Rec., p. 927), and the court also stated to counsel (Rec., p. 928), in answer to what counsel said to him, that—

> so far as the first count is concerned it would matter not whether Mr. King was mistaken in his construction of the law or not. * * * The sole question is whether the things were done, intentionally done, which constitute an offense under the laws of the United States.

This was said to counsel. The court later advised the jury fully on the subject in the instruction above set out.

Plaintiffs in error in the same subject of argument have said much concerning the question of good faith. They have not pointed to any part of the charge where they complain of anything the court said about good faith.

The only time the court referred to it was when ruling upon the admissibility of the private letters Mr. Newberry had written to and received from a friend who had no connection with the conspiracy. Counsel for defendants had stated (642) that the letters bore upon "the good faith of the candidacy" of Newberry. The court said that the "good faith or bad faith of Senator Newberry *in entering upon his candidacy* is not in issue"; and that, if it were, the proffered testimony came within the self-serving rule. There certainly can be no just complaint of this.

The plaintiffs in error base their argument on the fact that the statute says every person "wilfully violating" any of the foregoing provisions of this act shall upon conviction be fined, etc.

They first assert that the indictment does not allege that the acts committed by the plaintiffs in error were done wilfully. They ignore the fact that the charge in the indictment is not that the plaintiffs in error violated the Corrupt Practices Act, but that the charge is conspiracy under Sec. 37.

They overlook the well-settled principle that in alleging a conspiracy to commit an offense, the offense conspired to be committed need not be averred with the same particularity as if the defendants were indicted for a commission of the substantive offense. *Anderson* v. *United States* (C. C. A. 8th), 260 Fed. 557, 558; *Knauer* v. *United States* (C. C. A. 8th), 237 Fed. 8, 12; *Lew Moy* v. *United States* (C. C. A. 8th), 237 Fed. 50, 52; *Aczel* v. *United States* (C. C. A. 7th), 232 Fed. 652, 659, 660; *McConkey* v. *United States* (C. C. A. 8th), 171 Fed. 829, 832, 833; *Thomas* v. *United States* (C. C. A. 8th), 156 Fed. 897, 906, 907; *Van Gesner* v. *United States* (C. C. A. 9th), 153 Fed. 46, 54; *Ching* v. *United States* (C. C. A. 4th), 118 Fed. 538, 540.

Neither have they considered that only one of the plaintiffs in error, Truman H. Newberry, was capable of committing the offenses defined by the Corrupt Practices Act; that persons may be guilty of conspiracy with one to commit an offense which as a matter of law only that one can commit (*United States* v. *Rabinowich*, 238 U. S. 78, 86; *United States* v. *Holte*, 236 U. S. 140, 144, 145; *Chadwick* v. *United States* (C. C. A. 6th), 141 Fed. 225, 235-237; *Tupack* v. *United States* (C. C. A. 3d), 220 Fed. 445, 446, 447; *Greenberg* v. *United States* (C. C. A. 1st), 145 Fed. 81, 84, 85; *Scott* v. *United States* (C. C. A. 6th), 130 Fed. 429, 432, 433); and that the indictment alleges with the most technical

accuracy the conspiracy in question, which included—

> on the part of said Truman H. Newberry of wilfully violating the Act of Congress approved June 25, 1910, as amended by the Acts of August 19, 1911, and August 23, 1912.

There is neither reason nor authority for the interpretation the plaintiffs in error give to the word "wilfully." In a statute in which it occurs it does not have the effect of creating the defense that ignorance of the law is an excuse for defendants' conduct. Plaintiffs in error cite one case, *Cutter* v. *State*, 36 N. J. L. 125, in which they say the court held that ignorance of the law was an excuse. Without stopping to consider whether a justice of the peace is criminally liable for accepting fees not allowed by law, but which he thinks are proper, the case is not regarded in even the State where it was decided as an authority on the point upon which it is cited here. The case of *Cutter* v. *State*, *supra*, was cited and relied upon in *State* v. *Halsted*, 39 N. J. L. 402, and the court in speaking of it said that the case would not—

> be used as authority to overthrow the accepted doctrine that ignorance of the law is no excuse for crime.

The claim of defendants is universally repudiated.

The governing principle has been well stated as follows:

> Ignorance of the law will not excuse its violation even when one endeavors to ascertain the law and is misled by the advice of counsel. . . . "The maxim ignorantia legis, neminem excusat," said the court, "is a stern but inflexible and necessary rule of law that has no exceptions in judicial administration." . . . It is very true that to constitute a crime, there must be an act and intent. But in such a case as this it is enough if the act be knowingly and intentionally committed. The law makes the act the offense, and does not go farther, and require proof that the offenders intended, by the prohibited act, to violate the law. The act being intentionally done, the criminality necessarily follows." *State* v. *Foster*, (R. I.), 50 L. R. A. 339, 342.

The fact that a person honestly believes that he has a right to do what the law declares illegal will not affect the criminality of the act. *State* v. *Welch*, 73 Mo. 284, 39 Am. Rep. 515; *People* v. *Brooks*, 1 Denio (N. Y.) 457, 43 Am. Dec. 704; *Medrano* v. *State*, 32 Tex. Crim. 214, 22 S. W. 664, 40 A. S. R. 775.

The principles stated in the foregoing instruction have often received the approval of the courts, including this court. *Ellis* v. *United States*, 206 U. S. 246, 257; *Armour Packing Co.* v. *United*

States, 209 U. S. 56, 85, 86; *Reynolds* v. *United States*, 98 U. S. 145, 167; *In re Independent Publ. Co.* (D. C. Montana), 228 Fed. 787, 789; *Agnew* v. *United States*, 165 U. S. 36, 50.

The case of *Ellis* v. *United States* (and six other cases), 206 U. S. 246, involved prosecutions under the act of August 1, 1892, 27 Stat. 340, limiting the hours of laborers and mechanics employed by the United States or any contractor or subcontractor upon any of the public works of the United States to eight hours per day, except in cases of extraordinary emergency.

Ellis had permitted his associates in business to employ men for nine hours, in the hurry to get work done, was indicted and convicted.

The court said:

> There is only one other question raised in Ellis's case. It is admitted that he was a contractor within the meaning of the act and that the workmen permitted to work more than eight hours a day were employed upon "public works," and it is not denied that these workmen were "mechanics." The jury were instructed, subject to exception, that if the defendant intended to permit the men to work over eight hours on the calendar day named he intended to violate the statute. The argument against the instruction is that the word "intentionally" in the statute requires knowledge of the law, or at least that to be convicted Ellis must not have supposed, even

> mistakenly, that there was an emergency extraordinary enough to justify his conduct. The latter proposition is only the former a little disguised. Both are without foundation. If a man intentionally adopts certain conduct in certain circumstances known to him, and that conduct is forbidden by the law under those circumstances, he intentionally breaks the law in the only sense in which the law ever considers intent. *Ellis* v. *United States*, 206 U. S., 246, 257.

The first paragraph of the "Elkins Act" as amended by the Act of June 29, 1906 (34 Stat., ch. 3591, p. 587), provides:

> That anything done or omitted to be done by a corporation common carrier, subject to the Act to regulate commerce and the Acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said Acts or under this Act, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said Acts or by this Act with reference to such persons except as such penalties are herein changed.

The Act then provides:

> The willful failure upon the part of any carrier subject to said Acts to file and pub-

> lish the tariffs or rates and charges as required by said Acts, or strictly to observe such tariffs * * * , shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine * * *.

It was held in *Chicago, etc., R. Co.* v. *United States* (C. C. A. 8th), 162 Fed., 835; 90 C. C. A., 211, that the word "willfully" was used in the above statute in the sense that the *act* was done knowingly and purposely.

The Twenty-eight-hour Law, so-called (Act of June 29, 1906, 34 Stat. L., 607), provides that no railroad, express company, car company, common carrier, etc., shall confine animals in cars for a period longer than twenty-eight hours without unloading same in a humane manner into properly equipped pens for rest, water, feeding, etc.

The third section of the Act provides that if the railroad, express company, car company, common carrier, etc., "knowingly and willfully fails to comply with the provisions" of the law, they shall be liable to pay a penalty, etc.

It has been held that the words "knowingly and willfully" as used in the Twenty-eight Hour Law, mean that the *acts* were done intentionally and purposely. *United States* v. *Sioux City Stock Yards Co.*, 162 Fed. 556; *United States* v. *Atchison, etc., R. Co.*, 166 Fed. 160; *United States* v. *Union Pacific R. Co.*, 169 Fed. 65; *St. Louis, etc., R. Co.* v. *United States* (C. C. A.), 169 Fed. 69.

The "Corrupt Practices Act," after stating what the candidates for Senators and Representatives may expend, etc., provides (sec. 11) that every person willfully violating any of the foregoing provisions of this Act shall upon conviction be fined, etc.

The act of a defendant done in good faith may be willful. *United States* v. *Union Pac. R. Co.*, 169 Fed. 65; *Chicago, etc., R. Co.* v. *United States*, 162 Fed. 835; *Eldorado Coal, etc., Co.* v. *Swan*, 227 Ill. 586, 592, 81 N. E. 691; *State* v. *Clark*, 102 Ia. 685, 72 N. W. 296.

In the case of *Eldorado Coal & Coke Co.* v. *Swan, supra*, 81 N. E. 691, the court said:

> Willful is a word of familiar use in every branch of law, and, although, in some branches of law it may have a special meaning, it generally, as used in courts of law, implies nothing blamable, but merely that the person of whose action or default the expression is used is a free agent, and that what has been done arises from the spontaneous action of his will. It amounts to nothing more than this: That he knows what he is doing and intends to do what he is doing, and is a free agent.

The plaintiffs in error, on pages 94, 95, and 96 of their brief, come near to discovering the meaning of the word "wilful" as used in the statute. On pages 94 and 95 they refer to the Act of June 25, 1910, and its requirements, and say (p. 95):

> The wilful violations of the provision of the Act which were made crimes by this statute consisted in the refusal of a committee or of an individual to file any statement as required by the Act, or if a statement should be filed, a failure to have it include all the contributions and expenses as defined by the Act.

They then argue that if the required statement did not contain all the contributions and expenses, but it clearly appeared that they were omitted "unintentionally" (95), there would be no wilful violation; that if through "oversight" (96), a candidate should exceed his expenditures there would be no wilful violation. On page 94 of their brief they speak of "unwittingly" violating.

It may be that if a candidate were indicted for failure to include all his expenses in a report, it would be a defense if the omission were done unwittingly, or unintentionally or through oversight. But, on the other hand, if he failed to make any report, it would be no defense that he did not know of the existence of the law; or if he intentionally omitted to include expenditures he could not be heard to say as a defense that the report he was making was so far as he knew a voluntary report—that he was not aware that the subject was covered by a United States statute.

The court correctly charged the jury on this subject. The Government was not required to prove that the defendants knew some statute for-

bade the acts they were to perform. It was sufficient to show an agreement to do the acts which the statute says is an offense.

XXII.

The challenge to the array of jurors was properly overruled.

In the brief for plaintiffs in error, at page 142, the grounds upon which they claim that the challenge to the array of jurors should have been sustained are stated as follows:

> (1) The clerk of the court sent out a letter to the county clerks in the various districts suggesting they send in suitable names for the panel. It is presumed some of them did so, and it is further presumed that some names so sent reached the box.
>
> (2) The trial judge changed the language, or notice, on the back of the subpœnas for jury duty.
>
> (3) He sent to each juror a questionnaire, and he assumed the examination of these questionnaires in the absence of counsel for any defendant and from this examination eliminated many prospective jurors. Just how many we do not know.

None of these complaints, in view of the facts stated above, would have justified the court in sustaining the array.

1. As stated above, the formal challenge, in writing, as presented to the court, is not made a part of the record by the bill of exceptions. If

it can be looked to, as it appears in the printed record, for any purpose, it will appear that the charge was that lists were secured from county clerks and others and used without change or alteration. This, however, was an unsworn paper signed by counsel. If the point made was to be insisted on, it was necessary to support the averment by proof. No proof was offered. What the real facts were do not appear, except as they are stated in the opinion of the judge overruling the challenge. He states that county clerks who had the custody of county jury lists were asked to furnish and did furnish lists of names, and that similar lists, and other sources, were, upon request, furnished by other reliable and responsible persons, and that from these lists the clerk and jury commissioner made their own selections.

It does not appear that all the names on any list furnished were used or that the names put in the box consisted alone of names appearing on any of the lists. There is nothing to support a contention that the clerk and jury commissioner merely inspected and approved lists furnished by others. All that appears is that, in seeking information as to who would be proper jurors, they asked suggestions from the men in the various counties who were presumed to be best able to give reliable information, and that, with this, and presumably other information, and their own personal knowledge, they made the selections. Coun-

sel recognize that this is the state of the record, for in their brief they make no claim that the lists furnished were used in any way except as information to enable the clerk and jury commissioner to act intelligently. Hence, as above quoted, after stating that a letter was sent out asking county clerks to furnish lists of suitable names, they merely say:

> It is presumed some of them did so, and it is further presumed that some names so sent reached the box.

The sole question thus presented is whether a jury list is illegally made up merely because some of the names have been selected from lists of names furnished by request by county court clerks. The provision of the Federal statutes for the selection of jurors is found in section 276 of the Judicial Code, which, as amended by the Act of February 3, 1917, 39 Stat., c. 27, Sess. II, pp. 873–874, reads as follows:

> All such jurors, grand and petit, including those summoned during the session of the court, shall be publicly drawn from a box containing, at the time of each drawing, the names of not less than three hundred persons, possessing the qualifications prescribed in the section last preceding, which names shall have been placed therein by the clerk of such court, or a duly qualified deputy clerk, and a commissioner, to be appointed by the judge thereof, or by the judge senior in commission in districts hav-

> ing more than one judge, which commissioner shall be a citizen of good standing, residing in the district in which such court is held, and a well-known member of the principal political party in the district in which the court is held opposing that to which the clerk, or a duly qualified deputy clerk then acting, may belong, the clerk, or a duly qualified deputy clerk, and said commissioner each to place one name in said box alternately, without reference to party affiliations until the whole number required shall be placed therein.

It is not contended that this statute was not complied with, unless the facts stated above constitute such a failure to so comply.

No authority is cited by counsel to the effect that the seeking of information, as it was sought in this case, to aid in making intelligent selection makes illegal the selections, if the information is used. The case which apparently is supposed to be nearest in point is *State* v. *Nearhouse*, 29 La. Anno. Repts., 824. That case, however, does not in any way deny the right and the duty of jury commissioners to obtain information in every proper way before making their selections. The statute required jury commissioners to select the names from the qualified voters. In the case before the court they requested a third party to furnish a list of names. This list they merely inspected and approved. The court held that the selection was,

in fact, made by a third party and not by the commissioner. It was not a case where the commissioner had used the list furnished as mere information and then selected some of the names on it, together with names secured from other sources.

In *Clare* v. *The State*, 30 Md. 164, the law required the several judges to meet and select jurors. There was no meeting of the judges. A deputy clerk made a list of names and presented it to each individual judge, who approved it without particular examination. It was, of course, held that the list was not selected in accordance with the statute.

Shepherd v. *State*, 89 Miss. 147, did not involve the selection of names but involved only the action of the judge in drawing the names after they had been selected.

In *Finley* v. *The State*, 61 Ala. 201, the judge directed the sheriff to summon additional jurors from persons in the court room, when the law expressly required them to be summoned from the county. It was merely held that the action of the judge in limiting the sheriff to a selection from those who happened to be in the court room was illegal.

In *Healy* v. *The People*, 177 Ill. 306, the statute required that when it became necessary to summon additional jurors they should be summoned in the same way as other jurors, and this was not done.

Dunn v. *United States*, 238 Fed. 508, was decided before section 276 of the Judicial Code had been amended by the Act of February 3, 1917. Before this amendment, the section referred to required the clerk of the court to act as one of the jury commissioners. The court merely held that this was a duty which he could not delegate to a deputy clerk, and that if a deputy clerk acted in selecting jurors the selection was not lawfully made. The Act of February 3, 1917, changed this, by expressly providing that either the clerk or an authorized deputy might act.

In *United States* v. *Murphy*, 224 Fed. 554, it was held that where the names selected were taken in part from a list furnished by an assistant district attorney the selections were illegal. Since an assistant district attorney is constantly appearing as counsel for one of the litigants in the court, there will be little dissent from the conclusion that it is improper to select jurors from lists furnished by him. This was the only question the court had before it. Some language is used in the opinion which may give some color to a contention that lists made up by any one other than the clerk and jury commissioner should not be used for any purpose. It was not necessary, however, for the court to decide this, and a reading of the entire opinion indicates that the court did not intend to go that far. Thus it was said, at page 556:

> It is evident, and has been several times decided in similar cases, that it was not con-

templated that the clerk and commissioner of jurors should visit and abide in the several counties from which jurors are to be selected for a sufficient length of time to familiarize themselves or become acquainted with the citizens subject to jury duty and competent to act as jurors, but that it was anticipated these officers, in performing their duties, would obtain information from various legitimate sources, including, undoubtedly, personal inquiry. It has always been the custom, whether warranted by law or not, for these officers, in making up lists and selecting names of persons to act as jurors, to make inquiry of various well-informed persons, obtain lists from various sources, usually the grand and petit jury lists of the several counties, and then make a selection of names based on the information thus derived and not on personal acquaintance or actual knowledge as to the qualifications and fitness of the persons whose names have thus been finally selected to go in the box.

And, at page 562, the court referred to the case of *Klemmer* v. *Mount Penn Gravity R. R. Co.*, stating that that case dealt with a mode of preparing jury lists and drawing and selecting juries quite similar to that provided by the United States statutes, and quoted from the opinion as follows:

The jury commissioners and the judge, in alternately selecting names from the whole qualified electors of the county, may use

> lists made up by themselves of persons whom they deem sober, intelligent, and judicious, although the information upon which their judgment is based is obtained from others.

It is impossible for a jury commissioner in a large district to intelligently make selections of jurors unless he bases his selection upon information obtained from others. If he knows a man in a particular county, nobody would question his right to make inquiries of others as to the qualifications of that man. It may happen, however, that he does not even know the names of more than a very limited number of men in a particular county. He may not personally know a single man in that county. There are usually, however, methods of selecting jurors for service in the State courts very similar to the methods employed in the Federal courts. What better source of information, therefore, could be imagined than is to be found in the jury lists of the various counties, and what more appropriate way of getting jurors in a county than by applying to county clerks for them? If a request had been made of a particular county clerk to furnish the full list of names required, and that list should have been simply adopted and put in the box, a different question might arise. But in this case all the county clerks were requested to furnish lists, the aggregate number of names thus obtained presumably being much in excess of the number required. It can not be

claimed that any such list was adopted as a whole or without careful investigation by the clerk and commissioner. Indeed, the utmost claim which counsel make upon the record is that it is "presumed that some names so sent reached the box." This was in accord with the practice and custom which has prevailed for many years with the approval of the Federal courts. In the case of *United States* v. *Collins*, 1 Woods 5th Circ. (U. S.) 499, 511, 512, Fed. Cas. 14837, the officers whose duty it was to select the list of jurors had requested a postmaster to furnish a list of names from his county and he complied. Some of the suggested names were chosen by the officers. The court drew a distinction between giving information and official action and held that the obtaining of lists of this kind was a proper means to get the requisite information as to proper persons to select by applying to the most competent and reliable persons for such information, and added:

> It could not be expected that the officers should be personally acquainted with the entire male population of the district, consisting of more than eighty counties. They were necessarily obliged to rely on information derived from others. If they acted in good faith in getting the best information they could and made their selection accordingly (and nothing appears to the contrary, but that they did this), their action can not be impeached or held invalid. Impossibilities can not be required of any officers.

It is submitted that no illegality has been shown in the method of selecting jurors in this case.

2. There was no error in the action of the judge in having endorsed on the back of the subpœna for jury duty a warning to the juror not to permit any one to talk with him about pending cases.

It is difficult, indeed, to imagine how this very proper action on the part of the judge can be the ground of complaint. No reason for such a complaint seems to be suggested in the brief. The warning to the juror thus given serves simply to call his attention to what would have been his plain duty if no warning had been given. When jurors appear and are accepted as the regular jurors for a term, it is usual for the judge to publicly give them this same warning. It would not be improper for him to publish such a warning in a newspaper before the convening of each term of court. Indeed, any man who undertakes to discuss a pending case with one whom he knows to have been summoned as a juror is guilty of contempt of court. It is true that this warning does not usually go to the juror with the subpœna that is served upon him. The fact that the duty of a subpœnaed juror in this regard is so generally understood makes it unnecessary. But the large number of defendants in this case and the widespread interest in the approaching trial made it highly proper that the attention of each juror summoned should be directed to this duty so that he would be on his guard.

3. The objection based upon the action of the judge in excusing jurors in advance of the trial has been quoted above from the brief of counsel. The objection does not seem to be to his action in sending out questionnaires the answers to which would furnish information important to be known in determining the qualifications of a juror. There could scarcely be any serious objection to this. Indeed, if this was done in all cases, the answers to such questionnaires would be of very great value to counsel on both sides when the jury for a particular case is being selected. The objection, however, is stated to be that, in the absence of counsel for the defendant, the judge examined these questionnaires and "from this examination eliminated many prospective jurors."

As shown in the statement of facts made above, no juror was excused for any cause which would not have justified his being excused if he had appeared at the trial. This statement was specifically made by the trial judge in his opinion, and the brief of counsel does not claim that there is any evidence to the contrary. The sole question, therefore, is whether it is error for a judge in advance of the trial to excuse a prospective juror, and relieve him from attending court for a reason which would entitle him to be excused if he did attend.

It is stated in the brief of counsel, at page 144, that in the case of *United States* v. *Gale*, 109 U. S.,

65—although the question was not properly raised and therefore was not decided—

> it is stated that if certain persons are excluded by the court from serving on the jury, the jury thus drawn will be held invalid.

In that case there was objection to an indictment upon the ground that the grand jury had been improperly constituted. The point was that the judge had excluded from the grand jury certain persons whose names were drawn because they had taken part in the Rebellion. This action was taken pursuant to Section 820 of the Revised Statutes, which, it was claimed, was unconstitutional. It is true that this question was not decided for the reason that the court held that it was not directly raised. It is scarcely to be inferred from the opinion, however, that even if the question had been properly raised, and the court had held that the excluded jurors were competent, the indictment would have been held bad. Indeed, the intimation is decidedly the other way. The court said:

> The remarks apply with additional force where the objection is not to the disqualification of jurors who are actually sworn upon the panel, but to the exclusion, or excuse, of persons from serving on the panel. A disqualified juror placed upon the panel may be supposed injuriously to affect the whole panel; but if the individuals forming

> it are unobjectionable, and have all the necessary qualifications, it is of less moment to the accused what persons may have been set aside or excused. The present case is of the latter kind. No complaint is made that any of the grand jurors who found the indictment were disqualified to serve, or were in any respect improper persons. It is only complained that the court excluded some persons for an improper cause—that is, because they labored under the disqualification created by the 820th section of the Revised Statutes, which is alleged to be unconstitutional. It is not complained that the jury actually empaneled was not a good one; but that other persons equally good had a right to be placed on it. These persons do not complain. If their right to serve on the grand jury was improperly infringed, perhaps they might complain of being excluded. That is another matter. Or, perhaps, the defendants, if correct in their assumption that the law is unconstitutional, and that the court was governed by an improper rule in excluding persons under it, might have had the benefit of the error by moving to quash the indictment, or by pleading in abatement. (109 U. S., 70.)

No other authority is cited in support of the contention that a judge may not, before trial, for a proper reason, excuse from attendance upon court and service upon the jury one who has been summoned. The question does not seem to be involved in any case decided by the Federal courts.

The State courts, so far as we have been able to find, with one accord, sustain the right of a judge to excuse jurors under these circumstances. The rule in Alabama was at one time to the contrary. But in *Fariss* v. *The State,* 85 Ala. 1, the earlier cases were overruled. The facts in that case were stated thus:

> The case was taken up for trial during the week for which it was set. Pending the drawing of jurors for the purpose of selecting and impanelling the jury, five several names were drawn, each of whom was of "the regular jurors summoned for the week." They not appearing, the court announced, in reference to each of them, that on their several applications they had been excused by him from attendance on the court as jurymen for reasons which the court deemed sufficient. This had been done without the knowledge of defendant, and the discharge had been ordered on Monday, the first judicial day of the week. This question was properly reserved for our consideration. (Id., p. 4.)

After referring to the earlier cases in which it had been held that the discharge of a juror under these circumstances was reversible error, the court said:

> This question, however, has been twice decided the other way, and we will treat it as settled. *Floyd* v. *State,* 55 Ala. 61; *Jackson* v. *State,* 77 Ala. 18. We do this not reluctantly, because the rule asserted in

> *Parsons' case* is exceedingly inconvenient in practice, and it is believed that it accomplishes no good result. It must be presumed that judges, in excusing jurors, act on correct principles, and discharge them only for good and sufficient reasons. (Id., p. 4.)

This decision was cited with approval in *Maxwell* v. *State*, 89 Ala. 150, 163.

In *Commonwealth* v. *Payne*, 205 Pa. State 102, 103, it was said:

> Whether the juror be excused at the trial or beforehand is also within the sound discretion of the court, though in the latter case the action and the reasons for it should be stated in open court, so that the fact that the excuse was judicially passed upon and found to be sufficient should appear on the record. It would be an unreasonable hardship on a juror seriously ill to require him to be brought into court merely to be excused, and the reasons for disqualification or excuse are so numerous that they cannot be specified beforehand or reduced to any set rule, but must be left to the discretion of the judge to dispose of as they arise.

The question of whether a juror presenting an excuse which will entitle him to be relieved of jury service shall be excused before the trial or required to attend and then be excused would seem to be an eminently proper matter to be left to the discretion of the judge. As suggested in some of the authorities cited, it would be a great hardship

to require a man who, under the Michigan statute, for instance, would be entitled to be excused on account of sickness in his family to leave his family and travel perhaps several hundred miles in order to personally present his excuse in open court. No good could possibly be accomplished by taking such a course, and no statute requires it to be taken. The reasons given in the opinion of the learned District Judge in this case for excusing before the trial jurors who would have been entitled to be excused on the trial are unanswerable. It appears that, in each instance, he promptly advised counsel of his action and the reason therefor. And it does not appear that any objection was made to this method of proceeding. It is not claimed that any man was excused who did not present a legal excuse, and it is submitted that there was no error in this action of the judge.

XXIII.

There was no error in declining to require the Government to furnish defendants with a list of witnesses.

There was a motion, supported by the affidavit of one of the attorneys, to require to be furnished the defendants a list of all the witnesses who were before the grand jury and of the witnesses that the Government expected to call upon the trial. The motion, as made, included a demand for a list of the names of all persons summoned before the grand jury who did not testify but who made statements to the special assistant to the Attorney General. The latter demand, however, seems to

have been abandoned in the brief and will not be further referred to.

The only statute requiring that a list of witnesses be furnished in any case is section 1033 of the Revised Statutes, which is as follows:

> When any person is indicted of treason, a copy of the indictment and a list of the jury, and of the witnesses to be produced on the trial for proving the indictment, stating the place of abode of each juror and witness, shall be delivered to him at least three entire days before he is tried for the same. When any person is indicted of any other capital offense, such copy of the indictment and list of the jurors and witnesses shall be delivered to him at least two entire days before the trial.

There has thus been singled out cases of treason and other capital offenses, and a provision made that lists of witnesses shall be furnished.

It would seem to follow that Congress intended that such lists of witnesses should not be required in any other cases, and so this court has held.

In *United States* v. *Van Duzee*, 140 U. S. 169, 172-173, it was said:

> By section 1033, where a person is indicted for a capital offence a copy of the indictment and list of the jurors and witnesses shall be delivered to him at least two entire days before his trial. There would appear to be a negative pregnant here, and it has accordingly been held that in cases not capital the prisoner is not entitled to a

> copy of the indictment at government expense. *United States* v. *Bickford*, 4 Blatchford, 337; *United States* v. *Hare*, 2 Wheeler, C. C. 283, 288. Nor is he entitled to a list of witnesses and jurors. *United States* v. *Williams*, 4 Cranch, C. C. 372; *United States* v. *Wood*, 3 Wash. C. C. 440.

Even in capital cases the defendant is not entitled to a list of the witnesses before the grand jury.

In *Wilson* v. *United States*, 221 U. S. 361, 375, it was said:

> Even in cases of treason and other capital offenses, under section 1033 of the Revised Statutes, the required list of witnesses is only of those who are to be produced on the trial. *Logan* v. *United States*, 144 U. S. 263, 304; *United States* v. *Curtis*, 4 Mason 232; *Balliet* v. *United States*, 129 Fed Rep. 692.

It is also settled that, unless given by some statute, the right to a list of witnesses does not exist. *Thiede* v. *Utah Territory*, 159 U. S. 510, was a capital case, but was tried in the courts of the Territory of Utah. The court held that section 1033 of the Revised Statutes applied to the Circuit and District Courts of the United States, but did not control the practice and procedure of the courts of Utah; and because the territorial statutes of Utah did not require the furnishing of such a list it was held that the defendant was not entitled to it.

In *Hendrikson* v. *United States*, 249 Fed. 34, 35, the Circuit Court of Appeals for the Fourth Circuit said:

> There is no federal statute of direct application. Section 1033 of the Revised Statutes (Comp. St. 1916, section 1699) provides in substance that a copy of the indictment and a list of the jury shall be furnished, at least three entire days before his trial, to a person indicted for treason, and at least two entire days before his trial to a person indicted for any other capital offense. As this is the only provision on the subject, it would seem to follow, on the principle that inclusion of one is exclusion of another, that if the indictment be for a crime of lesser degree the jury list cannot be required and need not be furnished in advance of the trial.

The brief in behalf of the plaintiffs in error cites but a single case on this point, *United States* v. *Aviles*, 222 Fed. 474, decided by the District Court for the Southern District of California. That case, however, by no means supports the contention. On the contrary, at page 477, it was said:

> As to the motion to require the United States attorney to furnish to the defendants a list of the witnesses examined by the grand jury, I will say the Constitution provides (Article VI of amendments) that the defendant shall be confronted with the witnesses against him. This simply means that the defendant is entitled to attend the trial

> and to hear the witnesses testify. Section 1033 of the Revised Statutes (Comp. St. 1913, sec. 1699) provides that, in a charge of treason a list of the witnesses shall be furnished to the defendant at least three entire days before he is tried, and in all other capital offenses a list of the witnesses shall be furnished at least two days before the trial. It seems that by this statute Congress has taken a stand upon this very question, and this statute points out the policy of the government in all cases. The enactment of this statute concerning the subject would seem to exclude the idea that the prosecution was required to give a list of the witnesses in any other cases.

The court overruled the motion to require a list of witnesses. He did say, however, that it was conceivable that there might be a case which presented such circumstances that it would be proper and within the discretion of the court to require either that a list of witnesses be furnished or that the case be continued. Accordingly, he concluded his opinion with this statement (p. 478):

> At this time the motion for a list of witnesses will be denied, but after the case is set for hearing, upon a proper showing made, the matter will be reconsidered.

It is respectfully submitted that no error can be predicated upon the action of the court in declining to require a list of witnesses to be furnished.

XXIV.

Objections based on the admission and exclusion of evidence.

Many exceptions were taken to the rulings of the court on evidence. Only a few are mentioned in the brief, and, following the example of counsel, we will not mention others:

(*a*) The brief (p. 149) complains that the witness Osborn was permitted to testify to conversations with Oakman and King. It is sufficient to say that this testimony was admitted without objection. A motion was made to exclude conversations of the witness with certain other parties, but did not include the conversation with either Oakman or King.

(*b*) It is complained that certain correspondence between Newberry and one Miller should have been admitted in evidence. This has been fully discussed under a previous heading.

(*c*) It is complained that certain letters of Newberry relating to the Gold Star Club should not have been admitted. This correspondence between Newberry and Claude Hamilton was objected to only on the ground that the exhibits showed "on their face that the correspondence was had in September, 1919, nearly a year after the alleged conspiracy charged." (Rec., p. 184.) This objection is of no consequence. The statement of Newberry, by way of admission, made after the conspiracy had terminated, was clearly admissible against him.

The letters contain an admission by Newberry (p. 186) that he had subscribed money to the Central Committee, and this fact alone would make the letters competent, but the letters were coupled with the verbal testimony of Hamilton that within a few days after Newberry had written he could give no more money (Rec., p. 186) he sent Hamilton more than the latter had requested; and was also coupled with evidence introduced by the defendants themselves (Rec., p. 187) that Newberry sent his personal check to cover this election expense.

(*d*) Complaint is made because the report of receipts and disbursements made by Blair, the treasurer of the committee, was admitted in evidence.

The Blair report was filed by the defendants under the Michigan law (Section 3831, Compiled Laws of Michigan, 1915), requiring a full and detailed account of every sum of money received or disbursed by a committee such as these defendants composed, together with the names of the persons from whom the money was received or paid to, the dates, etc.

(1) A public record, required by law, is admissible to prove the facts stated in the record. *Lindsay & Phelps Co.* v. *Mullen*, 176 U. S. 126, 142; *Vallejo & Northern R. R. Co.* v. *Reed Orchard Co.*, 169 Cal. 545, 571–572; *Hennessy* v. *Metropolitan Life Ins. Co.*, 74 Conn. 699, 706; *State* v. *Smith*, 74 Iowa, 580; *Chesapeake & Del. Canal Co.*

v. *United States* (C. C. A., 3d Circ.), 240 Fed. 903, 907; aff. 250 U. S. 123.

(2) The only objection made to the report was on behalf of all defendants. The report was signed and sworn to by the defendant Blair, and, in any event, would have been admissible against him.

(3) But there was no question upon the trial that the report was not alone the work of Blair, but was the joint effort of the Newberry organization.

(*a*) Defendants' counsel in the opening statement admitted this. Speaking of the Blair report he said (Rec. p. 53) that "when the time came to make up the report required by law" all the bills were not in, and efforts were made to get them in; that they did not have time to get the report in shape that satisfied them entirely; "they all worked hard and faithfully upon it. The county clerk's office was kept open after hours to receive it. One man worked so hard, the proof will show, all night long over the figures and vouchers that he fainted away and had to be taken home in a taxicab. It was in that manner and under those circumstances that that report was finally prepared and filed. There are some discrepancies and changes in the report, but it is substantially accurate, and a true and proper recitation and history of the financial transactions incident to the campaign." (Rec., p. 53.)

Mr. King testified (Rec., p. 678) that he worked upon the report; that most of the office staff helped him in its preparation; that he told Blair before the report was signed that all bills were not in so far as he knew. "The Blair report was, in my judgment, as nearly correct as could be made from the information we had."

(b) Finally, it was complained that evidence of what certain defendants had testified to before the grand jury was admitted.

Clare Higbee, a member of the grand jury which returned the indictment in this case, testified to statements made by the defendants Ladd and Mickel before the grand jury.

The introduction of this testimony was proper:

1. Evidence which a person has voluntarily given as a witness in any proceeding or investigation may be used in any subsequent prosecution or proceeding against him. (1 Bishop New Criminal Procedure, 4th ed., sec. 1255.)

2. In order that one appearing before the grand jury may avail himself of the constitutional protection against being compelled to give evidence against himself, he must claim the privilege, otherwise it is waived. It is not the duty of the grand jury to extend the option to the witness to testify or not to testify. *United States* v. *Kimball*, 117 Fed. 156; *People* v. *Lauder*, 82 Mich. 109; 46 N. W. 956; *State* v. *Comer*, 157 Ind. 611; *Jenkins* v. *State*, 35 Fla. 737; *Gardner* v. *State* (Tex. Cr. App.), 28 S.

W. 470; *People* v. *Seymour* (Ill.), 111 N. E. 1008, 1011.

3. In this case neither Ladd nor Mickel claimed the privilege, nor was either of them put in an attitude by which, without suggestion on the part of the Government, he was compelled to claim the privilege. On the contrary, each was asked if he was willing to testify voluntarily, waiving his rights, without promise of any kind, and with the understanding that his testimony would be used for any and all purposes. Each said he was willing to testify upon those conditions, and it was after that that he was sworn and testified. (Rec., pp. 623-624.)

The privilege is purely personal and can be waived. There was not simply a waiver here by failure to claim the privilege, but there was an express waiver after the witness had been given full opportunity. Wigmore on Evidence, section 2276.

XXV.

Criticism of trial judge not justified.

A good deal is said in the brief for plaintiffs in error about "the attitude of mind of the trial judge," the necessary inference being that he did not conduct the trial in a fair and impartial manner. The record wholly fails to justify such criticism. An examination of it will show that the conduct of the trial judge throughout was characterized by the utmost care and an obvious purpose to be fair and just. Nothing is shown as to

his so-called "attitude of mind" except that he wholly disagreed with counsel as to what the law was and consistently ruled in accord with the law as he construed it, instructing the jury on that subject in language that could not be misunderstood. The implied reflection on the judge is attempted to be supported in two ways. Some quotations are given from his opinion overruling the demurrer and from what he said in overruling motions to direct verdicts. It is true, in expressing himself, he used strong and clear English, as every judge should do. The complaint of counsel seems to be that his rhetoric was a little too good and his style a little too ornate. Surely, however, this can not be a serious complaint, when it requires no effort to imagine the splendid eloquence with which the arguments of which he was disposing had been presented.

The other thing mentioned in this connection is the so-called severity of the sentences imposed after the plaintiffs in error had been convicted. The fact that Congress has left to the trial judge a discretion within certain limits indicates that it was intended that the punishment should be measured, in some degree, by the character of the offense. As to some of the defendants, the judge imposed the limit. These men had been convicted of a conspiracy, which can not be said to have had any minor or unimportant nature. It was directed against and constituted an offense against

the integrity of the election of Members of the Nation's legislative body, the thing which this court has repeatedly said is essential to the safety and perpetuity of the Republic itself. The conspiracy was carried out most effectively and on a most gigantic scale. In comparison with an ordinary conspiracy to violate revenue laws or to steal property in interstate commerce, such a conspiracy is the most serious and dangerous to the Government that can be imagined. If there is any case of conspiracy, therefore, which merits the extreme penalty of the law, it is one like this, which strikes at the very life of the Nation. Certainly, therefore, no improper attitude of mind on the part of the judge is to be inferred from the fact that he concluded that the chief conspirators and beneficiaries of this conspiracy should receive the extreme, though moderate, penalty of the law.

CONCLUSION.

It is respectfully submitted that the judgment of the court below is without error and should be affirmed.

WILLIAM L. FRIERSON,
Solicitor General.
FRANK C. DAILEY,
Special Assistant to the Attorney General.

DECEMBER, 1920.

No. 559.

In the Supreme Court of the United States.

OCTOBER TERM, 1920.

THOMAS H. NEWBERRY ET AL., PLAINTIFFS IN ERROR,

v.

THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN.

APPENDIX TO BRIEF FOR THE UNITED STATES.

APPENDIX.

ABSTRACT OF EVIDENCE RELATING TO EACH OF PLAINTIFFS IN ERROR.

It is the intention in stating the facts with reference to the individual defendants, to state under the name of one participant a transaction in which he was involved, and not restate it under the names of the other defendants who were active with him in the same transaction. This will avoid constant repetition.

TRUMAN H. NEWBERRY.

With reference to Truman H. Newberry, the facts relating to the commencement of the conspiracy in December, 1917, and his activities, together with the defendant Cody, in attempting to secure the services of Mr. Jay Hayden to go to Detroit and take the management of his forces is found under the Frederick Cody statement.

His connection with the trip made by Cody from New York to Detroit in February, 1918, to secure a manager, the negotiations for King's services through Cody and Templeton, and King's visit to Newberry in New York prior to his acceptance are shown in the Frederick Cody, Allan A. Templeton, and Paul King statements.

His knowledge of the intention to open headquarters, of the organization of the office force, of the employment of field and general agents, of the complete organization of the state by counties, of the personnel of the local committees, of the

weekly meetings of field men, and monthly meetings of county chairmen, the correspondence on these subjects and with reference to money are shown in the Paul King statement.

His knowledge and correspondence with reference to the publicitiy campaign are shown in the Hannibal A. Hopkins statement, the knowledge that speakers were being sent over the state in the Chilson and Ladd statements, and other activities through the various statements.

Mr. Newberry was constantly advised by Mr. King of the county and district banquets, attended by Newberry county, district, and headquarters officers. (King correspondence.) There was constant correspondence among the defendants and frequent exchanges of telegrams (206 to 219, 354 to 358, 360 to 362, 371 to 381, 385 to 404, 493 to 497, 556 to 561). Written reports were sent to headquarters and forwarded to Mr. Newberry. Mr. Newberry wrote and telegraphed the officers of the local committees, and wrote letters to committeemen and workers (96, 158, 236, 357, 371, 380, 384, 385, 394, 396, 399, 404, 436, 443, 548). The defendants Hopkins, King, Phillips, Sibben, Oakman, Andrews, Templeton, Floyd, Blair, and Emery all visited Mr. Newberry in New York, some of them many times (227, 228, 669). Cody, a frequenter of Mr. Newberry's office in New York (67, 68, 75), made visits each month to Detroit (140). Large bundles of letters with a New York date line, ready for Mr. Newberry's signature, were prepared in the Detroit headquarters and forwarded to Mr. Newberry's box number in New York (79). He complained about the size of the envelopes sent him (699, 670).

When Mr. King was in New York, packages of mail were forwarded him to Mr. Newberry's box number (148).

An item of expense amounting to $5,781.25 was suggested by Mr. Newberry, and he took a very active part in making the expense.

In a letter dated March 7, 1918, to Mr. King, Mr. Newberry stated that a Mr. Clippert, who was with him on Sunday, suggested the moving-picture business as a very satisfactory method of publicity, and Mr. Newberry said he was "heartily in favor of it." He said further: "I know several people here prominently identified with this particular business, and if you think it desirable to follow up sooner or later, I can put you in touch with the people who are in control of the distribution of all films" (685).

The suggestion of Mr. Newberry was adopted. On April 17 King wrote Newberry, "I am wondering if it could be arranged so that I can get in touch with some of the moving-picture people Saturday" (707). The defendant Phillips went to New York and looked after the arrangements for procuring the moving pictures. He was in conference with Mr. Newberry and spent ten days or two weeks on one trip in connection with the film, and made more than the one visit (69, 77, 78, 83, 227, 228, 570, 571).

Phillips purchased about 800 feet of an old film showing a review of the United States Navy. The subtitles were changed so as to make the pictures applicable to the propaganda for which they were intended. Mr. Phillips not only purchased the old film, but employed a moving-picture company to take 125 feet of new film, with Mr. New-

berry as the central figure. On a Sunday he went to a wooden battleship, a naval recruiting ship located in New York, where he posed (570, 571, 50).

The moving picture was prepared by the International Film Service Co., under a written contract with the Newberry Senatorial Committee, calling for " approximately one thousand feet, depicting and describing the growth and development of the United States Navy." The contract called for $1,000, and fifty dollars for each extra reel. Twenty or twenty-one copies of the film were made and delivered to the Newberry Senatorial Committee, which paid the Film Co. $2,031.25. This was for the old film, the new films made of Mr. Newberry, and the extra copies (570, 571).

The old and new films were combined in one picture and sent to the Newberry Senatorial Committee at Detroit. It was called " Our Navy."

Mr. Phillips then called upon the Dawn Master Play Co., of Detroit, and stated that he had a one-reel subject that was very patriotic and very interesting and asked whether the Company had facilities to handle it. He inquired whether the Company was in a position to give good and quick service and asked the price of distribution. Mr. Phillips later delivered about twenty copies of the film to the Company, told them to distribute " Our Navy " to the theaters throughout Michigan, and agreed to pay $3,750.00 for the service. The Company sent out six or seven men, placing the reels in the different picture houses, and the picture was shown in about 250 houses. The

picture houses paid nothing for the film and were paid nothing for showing it (430, 431, 432).

This expense of $5,781.25 for the making and distribution of the film covers only part of the expense in connection with it. The expense of the defendants to New York, the expense of dispatching a personal agent with the film (230), of telegrams to local officers of the Newberry organization, announcing the coming appearance of the film (216, 354), of local advertisements boosting the exhibition of the picture (230, 351), etc., are not included.

No part of the $5,781.25 is shown or accounted for in the Blair report (253 to 280).

Mr. Newberry paid the hotel bills of various defendants who came to see him relative to the campaign (227, 228); he made and paid subscriptions in connection with the campaign, and among others to a clipping bureau for triplicate sets of clippings concerning himself (and some of Mr. Ford), one to be sent himself, one to the defendant Cody, and one to defendant Phillips, a publicity man, at Detroit headquarters (525 to 530). He made church subscriptions after asking King how much he should give (699), and with the letter making the subscription would say: "I appreciate very much your friendly interest in my campaign" (436).

Large sums of money were paid throughout the state for circulating Newberry nominating petitions. Men were hired for this purpose at Detroit headquarters (171, 172) and by the Newberry County chairmen and secretaries generally. In instances a lump sum was given the circulator, sometimes he was paid so much a petition, and

sometimes five or ten cents for each name secured. Sums varying from $5 to $200 were paid (171, 172, 225, 226, 248, 351, 434, 555, 284, 285, 469, 470, 471, 472, 504, 505, 509, 510, 543, 544, 514, 515, 565, 566, 497, 498, 554, 569).

Mr. Truman H. Newberry wrote a letter of thanks to the signers of his petitions, as follows:

> I note with pleasure your name on one of the petitions nominating me for United States Senator and wish to thank you for this expression of your confidence in me (96)

or words of similar import.

Sometimes he addressed these letters to men who had not signed his petition (240, 322).

Instances of the manner in which the defendants expended money to secure union labor help are set out under the Floyd statement.

William Bailey, president of the Detroit Federation of Musicians, went with Fred Castator to the Newberry Senatorial headquarters and had a conversation with Mr. King. They asked Bailey to interest himself in the Newberry campaign, and said that the extent of his activities would be to make speeches to different labor organizations. Mr. Castator said that his pay would be $40.00 per week. Later Bailey received a letter from Mr. Newberry, asking him to interest himself in Mr. Newberry's campaign (304).

In the fore part of September, 1918, the defendant William Wilson called upon Edward F. Plunkett, of Muskegon, Michigan, president of the Central Trades and Labor Council. Wilson asked Plunkett how things were looking for Mr. Newberry in Muskegon County; said that Plunkett

had been recommended to him and that there was plenty of money in the campaign and he would be paid for anything he did; that they did not expect him to work for nothing. Plunkett told him that the matter would have to first be taken up with the delegates of the Central Trades Council. Later, during the same week, the defendant Brock, asked Plunkett if he could make a talk before the delegates of the Central Trades and Labor Council and was refused the privilege until it had been taken up with the delegates. Brock asked him to take up the matter in regard to his speech, and whether the Central Trades and Labor Council would make up their minds to support Mr. Newberry. He said that the Trades Council of Grand Rapids had endorsed Mr. Newberry, and he was led to believe that the Trade Councils throughout Michigan were making the endorsement. He further said, "We wouldn't expect you to devote your time for nothing; you will be amply paid for any work that you do" (438).

William H. Stewart was a member of the typographical union, and a delegate from that to the Trades and Labor Council, which was the central labor body of Kalamazoo. The defendant Farrell, had some talks with Stewart with reference to work in the interest of Mr. Newberry in the Trades and Labor Council, and asked that that body endorse a resolution favoring Mr. Newberry's candidacy for Senator. On one visit he took $10 from his pocket and asked Mr. Stewart if he would take that and purchase a box of cigars for the meeting of the Trades and Labor Council and to state to the body that it was sent by Mr. Newberry's friends, or in his interest. The cigars were

purchased and duly presented by Mr. Stewart, with the statement that they were sent up by Mr. Newberry's friends.

Prior to the meeting, the defendant, Wilson, in company with Farrell, had a talk with Stewart, in the course of which Mr. Wilson stated that a resolution endorsing Mr. Newberry had been passed in Muskegon, Grand Rapids, and another city; said he thought it would be easy enough in Kalamazoo, and stated he expected it would go over in Jackson that night, and that he was going from Kalamazoo to Jackson for that purpose (571 to 573).

The idea of securing help from unions was discussed in the correspondence between King and Newberry beginning prior to the middle of March.

In a letter dated March 13 to Paul King from Mr. Newberry he referred to the luncheon he had had with John Mitchell, who was "very well known in labor circles," and "one of the constant advisers of Mr. Gompers." He stated that Mr. Mitchell might visit Detroit and said: "I shall probably see him again, or at least communicate with him also that when he goes out there you will be able to make any suggestions to him that you think may be helpful" (689).

On March 8 he wrote Mr. King about the luncheon with Mitchell, and said with reference to Mitchell: "I think later he may communicate with some of his labor associates in Detroit, or he may be out there on some other business" (688).

On May 11, 1918, King wrote Newberry that the State Federation of Labor had not endorsed Governor Osborne; that a meeting was held in Port Huron two weeks prior, and "we succeeded in blocking an endorsement"; that the matter would

be taken up again June 30, when they hoped to secure an endorsement themselves or prevent anyone else from doing so (732).

During the campaign persons organized what they called a Gold Star Club in the interest of Mr. Newberry. They got people who had lost sons or relatives in the world war to sign a letter addressed to each soldier's family, and later found themselves $330 in debt. Mr. Claude Hamilton wrote and asked Mr. Newberry for the money. On September 18, 1919, Mr. Newberry replied to the request, acknowledging his appreciation of the Gold Star Club stating that he had written most of the members and saying that he had subscribed to the State committee all he could subscribe under the law and hoping " that some friend will be found who will make up " the deficit. A few days later Mr. Newberry sent to Mr. Hamilton his personal check for $350.00 (183 to 187).

As set out in the Paul King statement the checking deposits alone of the Newberry committee in the City of Detroit, amounted to $196,940.93. Contributions amounting to $178,856 are shown by the Blair report (283). The report shows that John S. Newberry contributed $99,900 (281 to 283). John S. and Truman are brothers (43). He authorized his bank account to be used for the campaign (44, 311, 312). The evidence fairly shows that Truman H. Newberry's account was used the same as his brother's. Included in this is the correspondence on money set out in the King statement and the telegram from defendant Smith, manager of the Newberry estate, sent a month before the primary referring to a telephone conversation in the morning and stating, that he

had misinformed him of "the date of closing regular expenses. Should have said August 27. The circular work, advertising, clerical help, postage, and all regular overhead expenses will naturally continue until primary. Have written" (173, 219).

The expenditure which was being made by the defendants was publicly attacked on August 17th. A Grand Rapids newspaper had sought information from the defendants, and on August 10th King had dispatched Emery to New York (562 and telegrams Newberry to King and King to Newberry, August 10, p. 882). Mr. Newberry wired the editor on the 11th, and on the 14th the editor telegraphed Mr. Newberry with reference to the situation, as is shown by the following telegram from Mr. Newberry to Mr. King:

> August 14, 1918. Paul King, Ford Bldg., Detroit, Mich. Received nine to-night from Grand Rapids. Quote. Thanks for your wire of the 11th. I am still waiting to hear from your committee at Detroit, from which no word has come as yet. I feel that this matter must be given earliest possible published attention. (Signed) A. A. Vandenburg, Publisher, Grand Rapids Herald. End of quote. Please advise me when your answer was mailed. Truman Newberry (883).

Mr. King answered this telegram the next day:

> Your telegram received. Letter from committee to Vandenburg mailed out to-day (883).

On August 17th King telegraphed Newberry:

> Vandenburg had our correspondence front page Herald to-day with sarcastic

editorial. I understand stating that our letter did not cover point, but supposed people would have to be satisfied. Have not been able to secure copy of paper. Do not think that this will be serious. Shall pay no attention to it. Splendid reports to-day from counties in all parts of the State. News says nothing. Hope you will not worry. Best regards (890).

On August 20th King again telegraphed Newberry:

Everything all right here. Vandenburg had story to-day first page showing you have big lead over other candidates. No editorial opinion, seems to be that his editorial Saturday will help more than hurt. People are saying sour grapes (892).

On the same day, August 20, 1918, King wrote Newberry:

I had a long talk with Charlie Cameron, of the Journal, last night and told him the whole situation and disabused his mind of the idea that the question of expenditure is an issue in the campaign, explaining to him the animosity of the Grand Rapids Herald, the Charlotte Republican, and the Escanaba Journal. This morning he called me up to say that Lieutenant Governor Dickinson had put out a statement on the Associated Press wire calling attention to our advertising expenses and money spent for postage, speculating on the number of workers, and calling upon you to withdraw. He asked me if I had any statement to make, and I told him I certainly would not waste any of his valuable space by replying to a statement from Mr. Dickinson. I do not believe there

will be any discussion locally; but if there is, we will take care of it along the line of our Grand Rapids letter (896 and 897).

In the same letter he inclosed the articles which had appeared in the Grand Rapids paper (896).

PAUL KING.

Paul King was the director of the defendants' activities. It is necessary, in stating what the other defendants did, to show the acts of King, and in order to avoid repetition those acts will not be repeated here, but reference is made to the other statements. His introduction into the conspiracy is shown under the Frederick Cody statement, and many of his subsequent acts appear in each of the other statements.

Soon after Mr. King became executive chairman he telegraphed Mr. Newberry from Detroit to New York, acknowledging receipt of telegram from Mr. Newberry. In this telegram he informed Mr. Newberry that he had selected headquarters for the Newberry committee in the Ford Building, Detroit, and stated that the headquarters would be ready on the following Monday. He further informed Mr. Newberry that he was perfecting an office organization (219).

The offices which Mr. King telegraphed Mr. Newberry he intended to open on Monday, March 4th, were opened about the time indicated in the telegram, and consisted first of a suite on the third floor of the Edward Ford Building. Later other rooms were added on other floors of the same building (76, 77, 78, 82, 146, 147, 680). The offices of the Newberry Estate in Detroit, of which the defendant, Frederick Smith, was manager, were

on the 12th floor of this building, and the private offices of Mr. Truman H. Newberry were at the disposal of and often used by the defendant King (79, 172, 311, 670).

The organization was detailed and elaborate. There was a chairman, executive chairman, secretary, numerous assistant secretaries, publicity director with assistants, speakers bureau, a Wayne County (Detroit) department. About 35 stenographers and typists were required for the work. Two shifts of employees were required, a day shift and a night shift.

The State of Michigan was thoroughly organized and constant touch was kept with all parts of the State. Michigan was parcelled into districts, and what they termed a field agent was hired and placed in charge of the district. These agents were for the most part employed by Mr. King in person and their duties embraced the complete organization of each county (680, 681, 682). Each field agent was paid a salary and most of them received $75.00 per week (681, 268, 276, 277, 279, 280).

In each county of their respective districts, it was the duty of the field agents to secure a chairman and a secretary to act in connection with the headquarters at Detroit, and later with either the headquarters at Detroit or Grand Rapids according to the location of the counties (681, 159, 226, 133, 486, 168, 137, 138, 160, 519, 192, 340).

The various field agents went into their territory to negotiate with and secure a chairman and secretary and effect a thorough organization in each county in Michigan with the exception of

Chippewa County, which was the home of ex-Governor Osborn.

Every county in the State with the exception of Chippewa was organized (752, 746 to 771). The local organizations carried on their work in connection with the Truman H. Newberry Senatorial Committee at Detroit and Grand Rapids. On March 7, Mr. King informed Mr. Newberry that he intended, during the month, to form the nucleus of a Newberry committee in every county (686). Mr. Newberry was informed of the plan of having field agents and county managers, and on April 15, 1918, wrote Mr. King with reference thereto, as follows:

> The minutes of your weekly meeting are intensely interesting, and I hope you will send me copies of them hereafter. The plan of having your field men in each Monday and the county managers monthly should enable you to keep fully informed as to the progress of your efforts. * * *
>
> I am glad to have the maps and the detailed reports from each county, which I shall be able to consult frequently as matters in various localities are referred to in your correspondence.
>
> All the men you have selected seem peculiarly adapted for their various districts, and I am particularly glad that you have found an opportunity to use Jim McGregor, which I know will please Mr. Warren, his friend (704).

On April 16, Mr. King wrote Mr. Newberry: "We have our meeting of field men today and I will send you a report tomorrow" (706).

On May 2, Mr. Newberry wrote Mr. King: "I am returning today by registered mail the

book of field reports which you left here, and which I expected to have written up from the notes you had with it. However, time has not been found in which to do it, and I gladly adopt your suggestion to exchange this book for a book brought up to date, and repeat this operation monthly or whenever you think desirable" (709).

On May 6, Newberry wrote King: "I will be interested to have your report after you have been home and looked matters over in your office. I suppose you will soon have your monthly meetings again, and the result of them I await with much interest" (716).

On June 17, King informed Newberry that he had just held a conference with the field men (792).

In speaking of Gladwin County, in a letter of August 6 to Mr. Newberry, Mr. King said: "This county had not been organized at the time of my trip, and my visit was of a preliminary nature. I have since sent a field man into the county (ex-Senator Corliss) and it is now organized" (865).

Mr. Newberry had the most intimate knowledge of the county organizations. During the entire campaign he was kept in constant touch with them by letters, written reports, telegrams, telephones (684 to 902, 165 to 167), and many personal visits from King and other defendants (227, 228, 69, 77, 78, 669). He was furnished a list of the officers in the various counties (746 to 771). He was told in letters who the chairman, secretary, or manager was. King visited practically every county in the State, and wrote Mr. Newberry the most detailed accounts of the situation in each county visited—

the work of the local officers, of the committee, the names of the men who were handling the Newberry petitions, the standing of other candidates, the names of the men seen, their occupations, whether they were for or against Mr. Newberry or neutral, the newspaper situation, the chances of carrying the county. He told him the difficulties encountered in counties and the efforts to meet them (684 to 692). Reports of field and general agents detailing the situation were sent him (165 to 167, 847 to 854, 900 to 902).

On April 6 Mr. Newberry wrote Mr. King:

> At the present writing I feel that you have secured for my candidacy what might be described as the inside track for the nomination (701).

In a letter May 18 to Mr. King Mr. Newberry refers to various letters received from him and says:

> All of which give me a most comprehensive view of the hard work you have been doing in the Northern Peninsula. * * * I have just read over again your letter of the 16th giving me a summary of your whole trip, and once more offer congratulations on the results (7, 738).

On May 30 Mr. King wrote Mr. Newberry: "We are making good progress, I think, and the preliminary organizations in the counties are practically complete." In the same letter he spoke of a few troublesome counties, and said:

> I am going to clean up on all these counties next week. We have good men in each county who will be with us, and it is merely a question of getting them together. I will

> take them in their order, one after the other, and close up. When I come down I will bring a detailed report on each county (743).

On July 27 Mr. King wrote Mr. Newberry: "We are going after every county and not slighting any" (845).

On July 9 Mr. Newberry wrote Mr. King:

> From every one of your letters I gather a broader view of the immense amount of organization work you are personally developing all over the State (826).

In the Blair report (252 to 283), which was prepared under King's supervision (677, 678), the total disbursements of the organization were stated to be $176,568.08 (280).

The evidence shows expenditures largely in excess of $200,000.

King, as chairman of the committee, opened an account in the Commonwealth Savings Bank, of Detroit, in March and deposited $5,083.73 (117, 666).

The Newberry Senatorial Committee in May opened an account in the same bank, and there was deposited and expended the sum of $178,857.20 (117 to 123, 253 to 280).

The Committee had a deposit of $78,000 in the Union Trust Co. of Detroit, which was checked out and $65,000 of it placed in the Commonwealth Savings Bank, and went to make up the $178,857.20 deposited in the latter bank. But $13,000 represented by two checks of $5,000 each and one check of $3,000 never reached the Commonwealth Savings Bank (127 and 119).

The total amount deposited by the Newberry Committee in Detroit banks, subject to check, and withdrawn was:

Commonwealth Savings Bank (Paul King, Chairman)	$5,083.73
Commonwealth Savings Bank (Newberry Senatorial Committee)	178,857.20
American Trust Co. (Frank H. Blair, Treas. Newberry Senatorial Committee)	13,000.00
Total	196,940.93

This was expended.

The Blair report, filed September 6, says that there are no unpaid debts or obligations (283).

Many debts and obligations were paid after the filing of the report, among which were the following:

Amounts paid newspapers, not including the Detroit newspapers, for which the advertising was contracted for by the Campbell-Ewald Co	$1,462.94
The Campbell-Ewald Co., which received in November (574, 575.)	2,200.91
Difference between amount shown by report to have been paid and amount actually paid the Curtis-Hyde Co. for mimeograph letters (622.)	4,280.91

This does not approximate the amount actually spent by King and the other defendants. It does not include the sums paid in financing the campaign of James W. Helme, candidate of an opposition party; or the sums ($20,000 or $25,000) paid Milton Oakman, the large moving-picture bill, and numerous other items (253 to 280). No consideration is here taken of the cash kept in vaults, and distributed from there (see Emery statement), nor the accounts kept by Floyd in Grand Rapids banks (see Floyd statement).

The evidence does not show directly who contributed the excess spent over the amount shown in the Blair report.

The report which the defendants filed with Milton Oakman, county clerk of Wayne County (Detroit), shows the expenditure of $176,568.08. By the admissions of the report they spent $12,301.60 for mimeograph letters, $23,562.76 for printing, and, according to their report, $21,-099.18, and to their books, $23,342.45 for postage. "Stationery, supplies, and miscellaneous" was shown by their books to have cost $9,144.89, and by the report $8,541.24. The amount shown in their books for salaries and wages is $35,435.89, and in the report $33,997.15 (600, 601, 253 to 280).

The books of the committee show payments of $45,163.33 for newspaper advertising, and the Blair report shows $45,728.08, with an additional sum of $702.77, which was stated in the report as "Expenses of County Committee in connection with newspaper advertising" (600).

The report shows that traveling expenses of employees amounted to $9,104.52 (279); that expenses for copying election registers and canvassing voters amounted to $4,875.38 (280); that $1,356.04 was paid to one man for furniture (278), and that other items of furniture were purchased in the sums of $63.70 and $102.50 (277); $27.60 was paid for curtains (278); $54.76 to a clipping bureau (275); $27.42 for maps (276); $697.20 for a multigraph machine; $2,663.88 for an addressograph and plates; $20.85 for laundry (278).

Among other things for which the Newberry committee agents, headquarters and county, spent money was, for voters' lists (161, 280), canvassing voters (168), ascertaining opinion and sentiment of electors (175), work at polls, passing out cards at polls (322, 416, 483, 507), taking a friend to

lunch (221), gasoline (84, 170, 519), oil, auto hire (93, 547, 548), auto repair (84, 170), cigars (284, 454, 484, 503, 565, 572), soft drinks (284, 350), liquor (484), newspaper print paper (221, 222), exchange of work between neighbors (417), dental bill (287), piano rental (576).

They spent money for particular work among colored people (591), Indians (497, 480, 617, 618), lumber jacks (749, 752), factory workers (91), soldiers (898), sailors (369, 370, 898, 899), various lodges (524, 475, 476), and labor unions (99 to 103, 304, 438, 439, 571 to 573).

There were many occasions when money was "slipped" into men's pockets (516, 573, 498, 520, 511, 618, 249, 250, 426, 411). Money was given to a member of the election board (479, 480).

Men would be seated in Mr. King's private room in headquarters talking to him, when a man would enter and lay a sealed envelope in front of the visitor. This envelope was put in his pocket by the visitor, and later when he examined it, he found currency—from fifty to four hundred dollars (133, 134, 324, 545).

George H. Brownell, in the spring of 1918, was living in Detroit, and helped to promote the Boys' Working Reserve, the purpose of which was to put city boys on farms. Mr. Brownell told Mr. King they wanted the Newberry Senatorial Committee to pay for two advertisements in two large farm journals of Michigan; that it was good publicity for his candidate. The committee paid $700 or $800 for the two advertisements. Mr. Newberry's name was mentioned in connection with the adver-

tisements. Before Mr. Brownell left he and Mr. King made an arrangement for the former to go to work for the Newberry committee. The salary was not fixed, and Brownell told Mr. King he would see him again about the matter of salary (567, 568).

Alexander Bath, of Lansing, formerly lived in Mackinac County. Mr. King asked him to go to his former home in the interest of Mr. Newberry, and gave him to understand that he would be taken care of. A few days afterward he received a check for $100.00, and later Mr. King told him he would be allowed $5.00 per day, and in passing Mr. King's office in headquarters a gentleman handed him a sealed envelope which he found contained $50.00 (545).

Field Agent Corliss talked with Neil R. Walsh, of Shiawassee county, about taking employployment with the Newberry committee. Corliss said he thought Walsh would be a good man to handle the campaign for Mr. Newberry and Walsh said he would do so if he could get reasonable compensation. Corliss told him there was a committee that he expected would look after that. Later he talked with somebody from Newberry headquarters who he thinks was Mr. King. Walsh was made secretary of his county, received $525, and spent about $100 (485 to 487).

Mr. King wrote Mr. Newberry on August 20 that he " received a *voluntary contribution* to *our campaign fund* this morning from one of the leading business men of Grand Rapids " (896).

The subject of money, more or less veiled, was mentioned sometimes in the correspondence between Mr. Newberry and Mr. King.

In the December talk among Newberry, Cody, and Hayden the amount of money spent in the Herrick campaign in Ohio was discussed (61).

On March 8 King wrote Newberry:

> I am going to Cleveland to-night for the purpose of talking with the man who successfully managed Herrick's campaign for the Senatorial nomination, under conditions very similar to ours and I think I will be able to pick up some pointers (687).

On April 11 Mr. King wrote Mr. Newberry with reference to possible candidates for Senator and a conference at the home of Ben Hanchett, and said:

> At which I have confidential information, Senator Smith, Wm. Judson, ex-Congressman Diekema, and Arthur Vandenburg were present, they tried to make Diekema think he ought to run, *but he told them he did not have the price* (702, 703).

On August 19, 1918, Newberry wrote King:

> On the train from Boston last night, there was a *financial* friend of William Alden's who was disgusted at his attitude and made some very *practical suggestions* as to how the attitude of William's paper could be secured. I will tell you about this man when I see you (891).

In a letter of August 9, Mr. Newberry, in a letter to Mr. King, referred to Governor Osborn and said:

> If his subsidence at this time would insure me success, they might send for him and make arrangements, as in other cases, which would insure his being looked after in case of a Republican presidential success.

> There is much more about Osborn's present plight I will tell you when I see you. The statement that he is *short of ammunition* is an absolute fact. *Whether or not this was a feeler I will leave you to judge when I talk to you about it* (881).

On August 20, Mr. King wrote Mr. Newberry:

> I had a long talk with Charley Cameron of the Journal last night and told him the whole situation and disabused his mind of the idea that the question of expenditure is an issue in the campaign. * * * This morning he called me up to say that Lieutenant Governor Dickinson had put out the statement on the Associated Press wire calling attention to our advertising expense and money spent for postage, and speculating on the number of workers and calling upon you to withdraw (896, 897).

On August 15, Mr. King wrote Mr. Newberry:

> As is natural, many of the reports that I am getting now indicate "grief" of various kinds and I am straightening out the troubles as fast as they come on (888).

On July 28, the defendant, Fred P. Smith, an employee of the Newberry estate, who handled in currency the contributions made from the Newberry estate offices to the Newberry Senatorial Committee, had a talk with Mr. Truman H. Newberry and gave him the wrong information, and during the day telegraphed him at New York as follows:

> I misinformed you this morning the date of close of regular expenses. Should have said August 27. The circular work, advertising, clerical help, postage, and all regular overhead expenses will naturally continue until primary. Have written (173, 219).

The senatorial primary in Michigan was held on August 27.

FREDERICK CODY.

In 1918, the defendant Truman H. Newberry was located in New York (60, 664, 669), where he was attached to the Third Naval District, with the rank of Lieutenant Commander (75).

The defendant Frederick Cody formerly resided in Michigan, but some years ago moved to New York, where he was living during 1917 and 1918 (60, 74).

During the time involved, Mr. Newberry and Mr. Cody were closely associated (58 to 62, 67, 68, 73, 75). As early as December, 1917, they discussed the selection and employment of a manager to go to Detroit, establish headquarters, and take charge of the campaign in Michigan.

In their conversations (58 to 62), it was agreed by both that Mr. Cody should proceed to Washington and endeavor to employ Mr. J. C. Hayden, Washington correspondent of the Detroit News, as the manager of the Newberry force during the campaign (58 to 62).

In accordance with the arrangement, Cody went to Washington and called upon Hayden. He told Hayden that he came to him on behalf of Mr. Newberry and that Newberry wanted Hayden to manage his campaign in Michigan. Mr. Hayden refused, but Cody insisted and said he would not take "No" for an answer. Cody offered him a salary of $500 per month, and told him several times that he thought the matter of compensation could be arranged. He said that Mr. Newberry was very wealthy, and related the important interests Mr. Newberry had (58 and 59).

Cody returned to New York and within a few days called Hayden on the telephone. He was very insistent about Hayden's taking the management of Mr. Newberry's campaign in Michigan and told Mr. Hayden in a telephone talk, during the holidays, that Mr. Newberry wanted to see Mr. Hayden over Sunday, and requested that he go to New York. It was arranged that Mr. Hayden was to go to the Biltmore Hotel and that Mr. Cody would meet him there (59, 60).

Pursuant to this arrangement, Mr. Hayden went to New York where he was met at the hotel by Mr. Cody. Cody and Hayden had a talk in the latter's room, and Mr. Cody said they were still very anxious for Mr. Hayden to take the position of campaign manager. They talked at some length about this matter, and then went to Mr. Cody's home on Riverside Drive. In the afternoon Cody took Hayden to the Gotham Hotel to see Mr. Newberry, which at that time was Mr. Newberry's home (60).

In the conversation which followed, Mr. Newberry said he had been urged to run for United States Senator, and that Hayden had been suggested to him as a man who should be associated with the campaign. Mr. Hayden told him that he could not consider the proposition (60).

Mr. Newberry asked Hayden to apprise him with respect to the campaign (60).

Hayden suggested the advantage of securing the Detroit support, and Newberry asked how that could be done. Hayden said to see the various political leaders, particularly Mayor Marx, head of the city organization, and Milton Oakman (defendant), head of the county organization (60, 61).

During the conversation Mr. Hayden told Mr. Newberry not to conduct a "barrel campaign," and with this Mr. Newberry said he agreed (61). After Hayden made his observations against the use of large sums of money to procure office, the plan of securing him as manager of the Newberry campaign was entirely dropped both by Mr. Newberry and Mr. Cody (61, 62). Prior to that time they had been very insistent upon his acting, had been to Washington to secure him, had telephoned him, had had him come to New York for a conference, and had told him in that identical conversation that they would see him again and attempt to induce him to take the position (58–62).

Neither Mr. Newberry nor Mr. Cody ever again mentioned the subject of Hayden's taking the campaign management of Mr. Newberry (61, 62).

In the conversations with Cody, Cody informed Hayden that he did not expect to take an active part in the campaign in Michigan; that, of course, he would be connected with it, but would work from New York (61).

Prior to the arrival of Hayden in New York, Cody had arranged for Hayden's hotel accommodation, bought his return ticket to Washington, paid him in cash the amount Mr. Hayden had expended to reach New York, and settled his hotel bill (62). This expense, in searching for a manager for the campaign, like many other items of expense, was not accounted for in the campaign report of receipts and expenditures which was filed by the defendants (252 to 280).

Within approximately two weeks after Hayden had suggested that the support of Mayor Marx and Milton Oakman be secured, both Marx and

Oakman were in New York in conference with Newberry and Cody (67, 73, 227). Milton Oakman's hotel bill was charged to Cody (227), and was not included in the report of campaign expenses (252 to 280).

About February 10, 1918, Cody made a trip to Michigan on the hunt for a State-wide manager. He arrived in Detroit about February 11 and called in the men over the State known as the "Cody men." A conference was held for the purpose of considering who should be made manager, and it was unanimously agreed that the defendant, Paul H. King, should be secured (141, 662, 663, 556).

Cody and Templeton talked with King (662, 663). Templeton telegraphed Newberry with reference to the conference and the necessity of securing King (556).

After the termination of the conference of the Cody men, and on the same day that Mr. Templeton sent the telegram to Mr. Newberry, Cody returned to New York (141), and in the meantime King found out that he could not leave Detroit in time to arrive in New York on Saturday as he had agreed. Thereupon he sent a telegram to Fred Cody stating that he would arrive Sunday morning. Mr. King arrived in New York on Sunday, February 17, and remained two days in conference with Mr. Newberry and Mr. Cody (227). He returned to Detroit, and within a few days commenced the work of the campaign.

In January Cody telegraphed Andrews to meet him in Detroit (372), and on February 26 he met defendants Andrews and Templeton in Chicago (372, 373).

Cody made trips from New York to Detroit during each month of the campaign (140, 141). In September, on one of these trips, Mr. Newberry telegraphed him: "Many thanks for your cheering bulletin. Keep me posted" (217).

Mr. Newberry made several payments to a clipping bureau for service to Mr. Cody of clippings concerning Newberry (528, 529).

In January, 1918, at the Biltmore Hotel, the defendant Cody, in speaking of the Newberry candidacy, said to James Swinehart that it would be a great time for the boys in Michigan, because they would spend a barrel of money (67).

In April, in speaking about the campaign, Cody told Swinehart that he had been out in Michigan; that the lid was off and the sky was the limit (68).

ALLAN A. TEMPLETON.

The stationery of the Newberry committee carried the name of Mr. Templeton as General Chairman of the committee (94). He accepted the position at Mr. Newberry's request (69), and was one of the parties who took an active part in securing Mr. King to become executive chairman of the committee.

When the defendant Cody made a trip from New York to Detroit in February to secure a state-wide manager, Mr. Templeton was in conference with him and others and in company with Cody had talked with King (662, 663), and on February 13 telegraphed Mr. Newberry that he had spent two days in conference with Cody men from out in the state and city, and that it was the unanimous opinion that Paul King was "quite

necessary." He informed Mr. Newberry that King would be in New York Saturday and Sunday and reported "satisfactory progress" (556). King had agreed to go to New York to see Mr. Newberry at the time stated in the telegram.

Templeton was the first person King advised that he would take part (665).

The money which King deposited in the Commercial Savings Bank, of Detroit, as chairman, and which were the first moneys contributed, came from the defendant Templeton, on checks payable to Mr. Templeton and endorsed by him (666). King visited Newberry with Templeton on three or more occasions (227, 228). On April 17 King wrote Newberry that Templeton, Floyd, Hopkins, and King would arrive in New York on the following Friday to remain Saturday and Sunday (706). Mr. Templeton was in Detroit headquarters often, corresponded with Mr. Newberry, and was often spoken of in correspondence between King and Templeton with reference to various matters the three had considered or were to consider (690, 695, 697, 698, 701, 708, 722, 738, 741, 777, 794).

Templeton had a meeting with Cody and Andrews in Chicago on February 26 (372, 373).

The defendant Templeton called upon Francis O. Lindquist in Grand Rapids with reference to the Newberry campaign. Lindquist suggested that he would frame up a campaign for Mr. Newberry if the latter would endorse the pure-merchandise bill which Lindquist had introduced in Congress. Lindquist prepared a circular embracing a eulogy of the legislation and an endorsement of Mr. New-

berry, and took it to Detroit, where he met Templeton and King. At the meeting he dictated a letter of endorsement by Newberry of the legislation proposed, which was incorporated in the body of what had been previously written. He also prepared a pledge card, to be mailed with the circular, reciting that the writer, believing in the necessity of a law to prevent profiteering through the misbranding of merchandise, and that Truman H. Newberry, if elected, would urge its enactment, pledged his support. There was also a card with Mr. Newberry's picture in the map of Michigan, with the wording, "Newberry a war measure for the protection of every man, woman, and child in the state of Michigan." On the reverse side there were cryptic sentences like "A Law that will reduce the High Cost of Living" and "A Law that will Help Win the War" (306 to 310).

King wrote Newberry on May 22 that he and Templeton were working on an arrangement with Lindquist; that he had a mailing list of over 100,000 active men all over the state and they were "going to have him get busy with it" (741). On May 22 Mr. Newberry answered the letter, saying he was much interested in the details, etc. (742). On May 30 King wrote Newberry that on the following Sunday "we might discuss the Lindquist matter, which appeals to both Allan and myself as being a good thing" (744, 745). Mr. Newberry signed the letter Lindquist had dictated, and approximately 100,000 copies of the literature were mailed out. Lindquist presented his bill for $4,557.00, $500.00 for his services and the balance for printing, stamps, electrotypes, etc., and the defendant Emery paid the bill (306, 307).

MILTON OAKMAN.

In the December, 1917, conversa[tion between] Jay G. Hayden and the defendan[ts Cody and] Truman H. Newberry, Mr. Hayden [suggested the] desirability of securing the servic[es of Mayor] Marx and Milton Oakman, respect[ively, at the] head of the city and county org[anizations of] Wayne County (61).

On January 15, 1918, a little m[ore than two] weeks after Hayden had made the su[ggestion, Mr.] Marx and Mr. Robert Oakman, broth[er of the de-] fendant, Milton Oakman, both of De[troit, arrived] in New York and were quartered at [the Biltmore] Hotel for several days, during whi[ch time they] held conferences with Newberry and [Cody (67, 73,] 227). On January 17th they had a [long-distance] telephone conversation with the defe[ndant, Milton] Oakman, then in Detroit, and on t[he next day,] January 18th, Milton Oakman arri[ved in New] York where he was also in conferen[ce with New-] berry and Cody (227, 73).

Milton Oakman stayed at the Bil[tmore Hotel] from January 18 to January 21, ra[n up a hotel] bill of $128.75, which was charged to [Cody (227)] and never reported as a campaign ex[pense (225 to] 280).

Milton Oakman had been supporti[ng ex-Gover-] nor Chase S. Osborn in the race for U[nited States] Senator (444), but after the confer[ence in New] York he became an active Newberry [leader (72,] 82, 88, 89, 92, 451, 454, 455, 457, 4[34, 533, 534,] 689, 704, 739, 824, 826, 830, 896).

The defendant Oakman told Hen[ry A. Mont-] gomery, who was interested in Mr. O[sborn's cam-]

paign, that he (Oakman) was for Osborn and later told him that he did not intend to support Osborn but intended to support Newberry. He told Montgomery that he was sorry he could not be with Osborn, but that he could not afford to be; he would have to be with Newberry because of the money there was in it. In another conversation Oakman asked him if he was getting well paid for being with Osborn, and Montgomery said he was not getting anything. Oakman said he was foolish if he did not; that he (Oakman) was getting his; that he had come to the time in life when he had to look out for himself. He said: "I am getting well paid for what I do, and you are a blank fool if you are not getting well paid for what you do." He said that he had been promised and was to receive $20,000 for managing the Wayne County campaign for Newberry (444, 445).

During the primary campaign ex-Governor Osborn and Milton Oakman had a conversation, in which the Governor said to him: "Milt, I understand why you are not supporting me, but I have no feeling in the matter whatsoever. It seems to be to your interest. I was up there in Lansing, and they told me you were to receive $25,000, and at that time had $12,500." Oakman said that it was made very clear to him that his interest was to be with Mr. Newberry, and he had to look out for himself; that Governor Osborn knew the character of the fight and what it took to put it up in Wayne County, and it was to his interest (224).

The Wayne County Newberry committee, of which Milton Oakman was chairman (155), had its offices in connection with the Newberry Headquarters (77, 80, 82, 89, 91). He secured Zalie B.

Clago to work with him (77, 80, 89, 91), and employed other office help (88, 89). Oakman's office help was paid by Newberry general headquarters (89, 92). Mr. Oakman was not only in the Wayne County department of headquarters but often in the main headquarters and in Mr. King's room (92, 82, 132). He was county clerk and requested his deputy clerks to support Mr. Newberry (451).

He gave a smoker in his home and asked the men to support Newberry (457). J. Scott Hunter was present, and he later secured $600 from the defendant Emery, which he spent for drinks and cigars (484).

He went to New York on several occasions to see Mr. Newberry.

Mr. Oakman contracted to carry Newberry advertising in the Abend Post of Detroit, and the articles were written from suggestions made by Mr. Oakman. The Abend Post was printed in German and carried thirteen of these advertisements in July and August.

Oakman paid $227.50 for these, but Mr. Newberry's picture was omitted, and the committee omitted to mention the name of the paper or the $227.50 in the report of expenditures (533, 534, 253 to 275).

On March 13, in a letter from Mr. King to Mr. Newberry, he spoke of one of Mr. Oakman's visits, and said he had mentioned to Oakman the luncheon he had had with Mr. John Mitchell, the labor leader (689).

On April 13, in another letter to King, he said:

> Until I hear from you in regard to the members of the Wayne County Committee I

shall not write to them, for as you say, Mr. Oakman may take the message which I sent through him as sufficient (704).

On May 18, Mr. King wrote Mr. Newberry from Detroit:

This morning I had a long visit with Milton Oakman, and he tells me everything is going well here (739).

On July 6, Mr. King wrote Mr. Newberry:

I called on Pliny W. Marsh. He is connected with the Detroit Citizens' League, which put over the new charter. Mr. Marsh is under some obligations to me and he was very friendly. I laid the Wayne County situation before him, stating that Mr. Oakman was interested in your candidacy long before I was, and, in reality I had no jurisdiction over him at all; that I knew if Wayne County were lost to us I would be given the blame, and that if it went the other way, he would get the credit, although, personally, I did not object to that. This was the point, however, that Marsh objected to. He said, it being generally understood that Mr. Oakman was the Newberry manager in Wayne County, Mr. Oakman, would, if he won out, be the king in county politics for a long time to come, which he did not think was a desirable thing. In order to get around this I suggested that we might have a campaign committee here as in other counties—in fact, this is the only county in the State where we are depending on just one man—a very poor practice, I think. Mr. Marsh said he would advise with me in the selection of such a committee, but thought it best not to be publicly affiliated. I think may be I can get this notion out of his head. Any way, he will help all he can (824).

On July 9, Mr. Newberry answered this letter and said:

> Your information about the Wayne County situation does not surprise me at all, and I am quite prepared for any kind of a shift that Mr. Oakman may find that his personal political future requires. Your idea of a separate organization in Wayne County, possibly in cooperation with Pliny W. Marsh, of the Detroit Citizens' League, is, I think, a very necessary precaution, as a change in Mr. Oakman's mind, under present conditions, would leave us without the slightest organization in the very place where we must secure a large, favorable vote in order to insure success (826).

On July 20, Mr. King wrote Mr. Newberry:

> Milt Oakman has apparently waked up and is going strong. He is now working out a precinct organization which I am sure will get results.

In the same letter he said:

> E. W. Yost, Commissioner of Schools, is taking an active interest and will be very helpful. Milt will probably have his own people also, but we are working together on the proposition so that there will be no conflict (830, 832).

On August 20, Mr. King wrote Mr. Newberry, with reference to Detroit:

> We have precinct organizations in nineteen wards in the city. This is supplemental to Mr. Oakman's work (896).

CHARLES A. FLOYD.

The name of Charles A. Floyd appeared on the stationery of the committee as secretary (94). He

was chosen by King in March (673, 674), and Mr. Newberry was so informed on March 7 (686), and wrote King stating he "was glad to know that you have received in Mr. Floyd a man whose qualifications are exactly what you require for the work to be done" (688).

In April, 1918, the Committee theretofore with Detroit headquarters, branched out and established headquarters in Grand Rapids. They rented a suite of rooms, placed the defendant, Charles Floyd, in charge, transferred one of the publicity department, viz, Mr. James B. Haskins, from the Detroit office to the Grand Rapids office and hired a small stenographic force (83, 84, 112, 113, 668, 673, 674).

This arrangement divided the territory. Grand Rapids was made the center of a large number of counties on the western side of Michigan and the work done in the Grand Rapids office for the territory it embraced was largely a repetition of the work done in the Detroit headquarters.

A great deal of money was handled out of Grand Rapids headquarters and one of the chief distributors of money was the defendant, Charles Floyd (97, 99, 100, 102, 162, 168, 174, 175, 192, 195, 220, 221, 229, 230, 235, 284, 298, 351, 352, 362, 419, 593).

The defendant Floyd, on April 27, approximately the time when he opened the Newberry headquarters in Grand Rapids, opened an account with the Commercial Savings Bank of Grand Rapids and from that date to September 9, 1918, deposited $11,280.00 (112 to 115). He carried an account also in the Old National Bank, of Grand Rapids, and from April 2 to August 23 deposited

$4,978.00 there (136, 137). He issued checks on both funds to pay Newberry Senatorial accounts (168).

However, he paid most bills in cash.

He helped organize the western part of Michigan in behalf of Mr. Newberry.

He secured August Field as Newberry chairman for Manistee County and on three occasions gave him cash aggregating $600 (228 to 230).

He saw M. A. Barber, who was made secretary of the organization for Emmet County, and sent him $150 (351, 352).

In company with King he called upon George A. Murray, of Muskegon, and asked him if there was anything he could do to get the railroad men lined up for Mr. Newberry, and said anything he could do along that line they would take care of him. Murray did as requested, and was sent $300 from Grand Rapids. He published an article in the Railway Men's Relief Association Magazine. The Grand Rapids headquarters ordered 20,000 extra copies, and for this he received $400, $150 from Grand Rapids headquarters and $250 from Detroit headquarters (195, 196).

James C. Quinlan, a traveling man, asked Floyd if there was something he (Quinlan) might find out in the north part of the State, while on his trip. Floyd told him to do so. He saw Floyd after the trip, gave the condition, and Floyd asked if he had any expense. He told him somewhere around $25 for the purchase of cigars "and entertaining in the line of taking a friend out to lunch or something of that sort." Floyd gave him $25 and odd cents (220, 221).

Allan K. Moore was employed as a general agent by the defendant King, and asked to go into the Upper Peninsula and sound out public sentiment. He was given $100.00 at the time to cover traveling expenses and hotel bills. He went to the Upper Peninsula, found out whether the men he talked with favored Mr. Newberry and wrote Mr. King each evening, telling him whether these men were favorable or unfavorable.

He saw Mr. King, and the salary of $75.00 per week was agreed upon (96, 97).

He worked only a few weeks in the Upper Peninsula because of objection to him on the part of the defendant, Roger Andrews. He was then given work exclusively among railroad men. This work was assigned by the defendant Floyd, who told him that he wanted Moore to go among railroad men and get them to circulate petitions for Mr. Newberry, and said, "You cannot expect that they are going to do this work for nothing." At the time Floyd gave him $300.00 in cash to pay out among railroad men. Moore, sometimes alone, another time accompanied by the defendant, William Smith, and at another time accompanied by George Murray, President of the Railway Men's Relief Association, and editor of their newspaper, made many visits over the state calling upon railroad men in various branches. He gave these men Newberry nominating petitions and distributed among them between eight and nine hundred dollars. Moore worked twenty weeks for the Newberry committee and received over $1,500.00 in salary, $1,219.00 expense money, and between $800.00 and $900.00, which he distributed among the railroad men to whom he gave the Newberry

nominating petitions. The total amount received by him was approximately $3,600.00, the payments made at various times and all in cash except the first $100.00. Floyd paid him personally several times. Each time he paid out sums he told Floyd about it (99 to 103).

Mr. Truman H. Newberry was fully informed concerning the activities of Mr. A. K. Moore and Mr. George R. Murray (896, 898 to 902).

On July 26, 1918, the defendant Floyd wrote the defendant King that 178 nominating petitions, including approximately 7,200 names, had been received from railroad men; that the petitions had been handled by 63 railroad employees, in all branches of the business, who were interested in saying everything they could for Mr. Newberry; that Mr. Murray was devoting a month of his time to visiting the various locals and "interesting the boys in our cause." He stated that Mr. Murray had visited all of the division points in the Lower Peninsula and had arranged with all of his departments to circulate petitions and boost for Mr. Newberry; that he intended to devote all his time to campaigning with joint meetings of the various union men at all division points. He named 23 cities in which Mr. Murray would address the unions. He further stated that another complete trip would be made by Mr. A. K. Moore, who would visit each of the men who had circulated petitions and keep the enthusiasm up until the final day (847, 848).

This letter when received by Mr. King was forwarded by him to Mr. Newberry (688).

Oscar E. Kilstrom, an officer of the Bolo Club, had a talk with Floyd with reference to organizing

Bolo Clubs; made a trip in connection with the Bolo Club, and Floyd on his return gave him $25 (298).

Floyd told August Kleibusch, a farmer of Allegan County, that he had "cards and stuff" to distribute for Mr. Newberry, and if he would be willing to handle them he would give him $25. He gave him $25 cash at the time and later sent him about 100 small cards (162).

He sent $35 to Orvil Dennis (168), secretary of the committee for Missaukee County (153).

On two occasions Floyd gave money to William H. Yearnd, Newberry county chairman for Wexford County (155). Once he gave him two twenty-dollar bills to pay for a Newberry supper, attended by King and Floyd, and another time he gave him $100 (173 to 176).

He was in Van Buren County securing a manager (183).

He paid money to Alex W. Bisaland, Newberry chairman for Oscodo County (192, 193).

He gave an order to a paper company for a ton of print paper, to be sent to the defendant Nowak, and asked that the bill be charged to the Newberry senatorial committee, and the bill, amounting to $126.16, was paid by it (221, 222).

He gave $50 to Herbert W. Davis (235), secretary of the committee for Lake County (152).

Floyd gave Charles Nowrot, of Grand Rapids, $80 to defray Mr. Newberry's expense of meetings, where he distributed cigars and soft drinks (284, 285).

He gave John Smolinski $12.20 railroad fare and $30 to repay him for money expended in mailing out editorials to Polish people (362, 363).

He gave Richard Allen, a railroad man, $50 to $100 (418, 419).

In company with King, he called upon George A. Glerum, of Osceola County. King asked him to do something with the Newberry campaign. He became chairman (154). Floyd gave him $70 (393).

Harry Viger was employed to work out of Grand Rapids headquarters at $25 per week. He talked with Floyd about the work and received instructions from him. Floyd paid him sometimes, and included amounts expended for gasoline, oil, puncture, meals (83, 84).

The county officers of the committee in making reports to headquarters often reported that they had received less money than was in fact received by them, and were told to make this understatement by the defendant Floyd (175, 176, 229, 230).

Floyd visited Mr. Newberry in New York with defendants King and Templeton (228). Newberry requested King to bring him to New York (818, 823).

The aggregate amount, stated by the Blair report, that was paid to or passed through the hands of Charles Floyd is $12,263.72. The books of the committee showed that $10,750.90 passed to him or through his hands, and that approximately $8,000 went to him on September 6 (607).

Among the items shown by the report as received by Floyd are: Expense of distributing literature in counties, $1,874.80; postage for county committees, $840.99; printing and stationery for county committees, $751.10 (276); clerical expenses county committees, $1,203.68; expenses of county committees in holding meetings, $901.50 (277);

county committees rent, furniture, light, and other expenses, $949.43; county committees for telegraph and telephone charges, $549.82; traveling expenses for Floyd, $1,084; and for county committees, $1,277.58 (279); expense in counties canvassing votes and tabulating lists, $2,107.20 (280).

Newberry and King wrote and telegraphed many times with reference to Floyd and his work (686, 688, 706, 749, 750, 754, 760, 779, 800, 816, 819, 823, 847, 848, 849, 851, 898, 899, 900).

HANNIBAL A. HOPKINS.

Mr. Hopkins was director of publicity (94) and was personally selected by King at a salary of $500 per month (667). The publicity campaign was under his supervision.

On March 19, King wrote Newberry that Hopkins was a distinct acquisition, and he thought "we were most fortunate to get him" (691).

At an early date he prepared a form of letter which was sent to the newspapers and magazines in the State requesting the editor to send the committee their space rate for advertising. Mr. Hopkins prepared a form of contract which was signed in duplicate and mailed to the newspaper editor, containing the contract price fixed by the editor and which the editor was asked to sign, retain a copy and send the other copy to the Newberry committee (81, 82, 235, 236, 346, 347, 592, 593). For 13 consecutive weeks they published 13 separate advertisements in over 500 papers in Michigan (81, 82, 253 to 275). They used church papers, farm papers, lodge publications, labor papers, and papers published in foreign languages.

The advertisements were contained in the Social Moose, the Odd Fellow, the Catholic Vigil, the Michigan Catholic, the Jewish Chronicle, the Christian Journal, the Michigan Christian Advocate, the Upper Peninsula Farmer, De Hallandasche Farmer, Michigan Business Farming, Finnish Printing Company, Onglisko Domawe Pub. Co., The Russian Life, The Belgian Press, The Romulus Roman, The Finnish Republican, La Tribuna Italiana, Italian Weekly, The Italian Publishing Co., The Magyar Hirlap (a Polish paper), D. A. Guraboneise (Dongo) Hungarian, and two papers published in the German language, the names of which were not included in the list of names published as having carried these advertisements and having received money for so doing (253, 275).

The Saginaw Journal, published during all the time in the German langauge, had a contract with the Newberry Senatorial Committee, and received $75.00 from it. It carried the advertising during all of June and July and one issue in August. A copy of each issue was mailed to the Newberry Committee. No report of this expenditure was made (533, 534, 253 to 275).

The Saginaw Valley Farmer, a monthly paper, published also at Saginaw, Michigan, carried 22 separate advertisements of Truman H. Newberry during June, July, and August. No report of this expenditure was made (591, 592).

The various advertisements which were carried were prepared by the defendants Hopkins, Calnon, and King (81, 82).

In the report of receipts and expenditures prepared and published by the defendants they admit

that they spent the sum of $45,728.08, which went directly to the newspaper publishers and a large additional sum in clerical help necessary for newspaper advertising (600).

They spent a much larger sum for newspaper advertising than the report shows. The report shows that the Detroit Free Press was paid $1,132.43. The amount actually paid was $1,885.50. The report shows that the Detroit Journal was paid $612.36, and the amount paid was $862.12 (574, 575).

The evidence showed that fourteen papers, which received $1,100.44, were not mentioned in the report, and that no sum whatever was credited as having been paid them; and that eleven papers were credited with having received $1,365.33 less than they actually received (541, 542, 543, 540, 539, 538, 536, 535, 534, 522, 513, 514, 502, 520, 566, 591, 592, 574, 575, 533, 534, 523).

All contracts for advertising were filed, indexed, and cross indexed, and each advertisement was examined by office assistants. A cartoonist was employed to draw various cartoons, and the advertisements when prepared were sent to the Western Newspaper Union, where plates of the advertisement were prepared. The advertisements to the newspapers were sent out in plate form (81, 82).

Mr. Hopkins employed the Campbell-Ewald Co. of Detroit, in connection with the preparation of the advertisements and illustration matter and gave instructions with reference to it (574).

On March 19, Mr. King informed Mr. Newberry that Mr. Hopkins was sending a circular letter to

the county papers, and that each paper was being sent one of Mr. Newberry's cuts. Mr. Newberry was fully advised as to the newspaper campaign, and in a letter written by the defendant, Emory, on March 1st, to J. Burt Keily, he stated that they "had kept out of extensive publicity at Mr. Newberry's personal request, pending the closing of the Liberty Loan and Red Cross drives" (3[illegible]25).

In a letter dated April 13th, to Mr. King, Mr. Newberry said: "I am glad Mr. Warner is scared out, *and as we keep our publicity work at full pressure,* it will be harder and harder for any new man to get any kind of a start that will make it seem worth while for him to be a serious candidate" (703, 704).

In a letter bearing date May 23, 1918, Mr. Newberry said: "If, in your opinion I should, by the use of these letters, now declare myself a candidate under the primary law, *would it not terminate our present plan of publicity?*" (741).

On March 21, 1918, Mr. King wrote Mr. Newberry with reference to putting out a platform, and said: "This would give our Publicity Department something to talk about and help keep up the interest" (694).

On August 15, King wrote Newberry with reference to two advertisements as follows:

"I am enclosing herewith a proof of an advertisement which will appear next week, showing the endorsement of leading farmers and men interested in agricultural matters throughout the state. This ought to help.

"Our only weakness is the labor vote, and my reports indicate that we are getting stronger there. The Flint Labor News, which has been strongly

Osborne is weakening and I am sending a man there to-day with a page advertisement for insertion just before the primaries" (888).

On August 10, Mr. Newberry wrote Mr. King concerning a contemplated visit to Col. Roosevelt, and said: "Will probably hear something of interest—particularly Osborne's side of the case, *and probably a criticism of the amount of publicity that has been found necessary*" (882, 883).

In April, Mr. Hopkins visited Mr. Newberry in New York, and his bill was charged to and paid by Mr. Newberry (228).

The Blair report shows $8,465 to have been paid to or through Mr. Hopkins (607).

ROGER M. ANDREWS.

Andrews was active from the beginning (59). On March 24th, in company with King and Templeton, he visited Mr. Newberry in New York, and his hotel bill, amounting to $41.10, was charged to and paid by Mr. Newberry (227, 228). On February 26, by prearrangement, he met defendants Templeton and Cody in Chicago (372, 373); on April 16th he met King there (374, 375); and in the week preceding July 5th he again met King and others in Chicago (827, 828). He made telegraphic arrangements to meet Floyd (377), Chilson (379), and Yelland (379), Newberry chairman of Delta County (150). In July the defendant Phillips telegraphed him with reference to the film "Our Navy": "Your copy of film will be shipped Tuesday," etc. (378).

On April 13 King referred to a telegram received from Andrews, informed him that every-

thing was going well in southern Michigan, and asked Andrews to call him on the telephone (374).

On August 17 Yelland telegraphed King:

> Andrews left for Detroit. Must have help first of week. We have them on the go * * *. We have a most effective organization. Have explained to Andrews; he will report to you (402).

On August 12 Andrews telegraphed Yelland from Detroit:

> Your plans approved and congratulate you upon excellent work; will telephone you Wednesday and probably see you Thursday morning (403).

On August 18 Yelland telegraphed Andrews:

> Your telegram put new life in our organization. I promise to give Newberry a substantial majority in Delta County (403).

On August 21 McGregor telegraphed King:

> Do not allow Andrews to interfere with any counties in Upper Peninsula, except Menominee, as to speakers or anything else. Sherwood and myself have been all afternoon fixing up his butting in on speakers. Our committees can make their own arrangements. We wouldn't have the fight in Delta if it were not for him. Sherwood and Magnum endorse the above (392).

On March 30, "a high official of the Cleveland Cliffs Co." called Mr. Newberry on the telephone from Cleveland with reference to two men "who control the mine situation." The high official said he knew that Mr. Andrews had done excellent work for Mr. Newberry, but expressed the hope "that Mr. Andrews will not be named to

handle the mining situation." Mr. Newberry wrote this to Mr. King, and said that before saying anything to Mr. Andrews he "would like to have the advice of Mr. Templeton" and King (697, 698).

In a letter to Mr. King on April 4, Mr. Newberry refers to the same subject, and said he hoped King would "frankly discuss the matter with Roger Andrews, and in order to make it easier for him to understand, you might state that you, yourself, were going to have the mining people to handle their own situation without advice or suggestion from anyone outside," etc. (701).

King met Andrews, by arrangement, in Chicago, and on April 16 wrote Mr. Newberry that the situation had been taken care of, that he could talk with Andrews without fear of hurting his feelings, that Andrews realized that it would be unwise for him to be active in localities where enemies were influential. The letter stated:

"He has already started some work with my approval, which will not conflict in any way with the organization which we have in mind, and which we will go ahead without regard to him. I told him I should wish to consult him about everything that is done, etc." (705, 706).

On May 15, Mr. King wrote Mr. Newberry:

"I arrived in Menominee Saturday evening at 10:45 o'clock and was met at the train by Roger M. Andrews. Sunday forenoon I spent with Andrews, going over with him the situation in the Upper Peninsula, carefully reviewing my reports. We agreed fully as to the condition in each county" (734).

In a detailed report to Mr. Newberry of every county in Michigan, he was informed:

" Roger Andrews is looking after Menominee County and guarantees it " (764).

On July 5, Mr. Andrews wrote to Mr. Newberry, and told him among other things of a meeting he attended in Chicago the previous week at which Mr. King and others were present (827, 828).

Andrews urged Herbert J. Rushton, a lawyer of Escanaba to become a candidate for state senator and promised the help of the newspapers belonging to Mr. Andrews. Rushton became a candidate and soon after found out that Andrews was opposing him. Andrews, in the original conversation, promised that when Rushton announced he would see that the announcement got into his papers. The announcement of Rushton was carried in the other papers of the district but omitted in Andrews' papers. Soon afterwards Andrews said to Rushton: " Now, I am going to lay my cards on the table face up. You have got to support Newberry for the United States Senate." Rushton told him that he could not do so. Andrews supported the opponent of Rushton and Rushton was defeated (193 to 195). This opponent was W. A. Lamire (193), the same man whom Yelland, Newberry chairman for Delta County and closely associated with Andrews, went to Grand Rapids to arrange for, and who telegraphed Lamire:

" Have all arranged for at least three hundred dollars. Do not make any announcement until I return Saturday morning " (493).

Andrews sent Newberry advertising to newspapers in addition to the advertising they received from Detroit headquarters (249). He sent a telegram:

" Lists of voters ten. Distributing printed supplies, buttons, and making canvas eighty-five. Printing instruction ballots twenty-five forty. Letters to voters and postage eighty-six twelve period total two hundred fifty-six dollars twelve cents" (378).

He asked Louis Desetell if he was a Newberry man, gave him cards to distribute and an envelope containing a $10 bill (508, 509).

He placed a ten dollar bill in the pocket of John Leaveck (511).

RICHARD H. FLETCHER.

Mr. Fletcher became active before Mr. Newberry's candidacy was publicly announced.

He told Dr. Hugh Stuart, of Flint, in January, in the lobby of the Capitol Building, at Lansing, that he understood Stuart was going to support Osborn for United States Senator. Fletcher said: " You had better wait and not declare yourself for anybody for some time, because we have got a man coming out for United States Senator that wants to be United States Senator bad, and is going to spend a lot of money to get it; we want you with us." Stuart asked him who it was and Fletcher replied that it was a man who lived in Detroit, " and right at the present time I can not give you his name but we will know in a few days." Within two or three days after that Mr. Newberry was announced (316). He was the

Newberry secretary for Bay County, and did work throughout the State (149).

He was very active in connection with the Helme petitions. He gave Terry Kelly blank Helme petitions at Saginaw, and fifty dollars, and told him to circulate them and send them to Lansing (219, 220).

The defendant, Henry, placed Helme petitions in the hands of George McKinley of Flint, and offered him $100 to circulate them. On the day preceding the last day for filing them, Fletcher called McKinley on the telephone from Lansing and asked what he had done with the petitions, and said " perhaps I will receive them to-night " (245, 246).

Many forged Helme petitions were filed, and the evidence showed that Fletcher committed forgeries (578 to 580, 584 to 590, 562, 563, 243, 244, 245, 350).

He attempted to employ Thomas F. Downey, of Detroit, to work for Mr. Newberry and said he would be compensated for his services (533).

Fletcher was in company with the defendants, King, Henry, and Castator, in Flint (249, 250, 333, 473).

William H. McKeighan, former mayor of Flint, was approached by the defendants Fletcher, Henry, Castator, and King about a week or ten days before the primary (312 to 314, 429, 430, 480, 481, 331, 333, 366). King asked him to line up for Newberry and said: " Well, what do you need to keep your line up here?" and McKeighan replied: " What do you mean?" King then said: " Well, what expenses is it going to entail? We have quite a large expense account we can allow. We

expect you don't want any for yourself, but you boys will need it for your workers." The defendant Fletcher said: "I told you before we came up here there was no use talking money with him. I know how to straighten him out. McKeighan has been with me before. He knows how I stand in Lansing, and regardless of whether Newberry carries the State of Michigan and goes as a United States Senator, or whether he does not, we will still retain power in the State of Michigan; and he knows well enough that his case is up in the Supreme Court there, and I am in shape so I can see whether it is affirmed or reversed, and if he wants to go out and work for Newberry, we will see that he does not go to jail, his case will be reversed; and if he don't, we will watch his district, regardless of whether Newberry carries the State of Michigan or not, it does not matter. If he carries this district for us we will take care of you; if you don't you are going to jail" (312 to 314).

Dr. Hugh A. Stuart, of Flint, was a candidate for State Senator. About the middle of June Mr. Henry called him up and asked him to come to the hotel, where he went and found the defendant Fletcher with the defendant Henry. Fletcher said to Stuart: "I have come down to Flint to fix up some of you boys that are not in line. You are a candidate for State Senator a second time. We are going to defeat every man, either State or county, who does not line up with the Newberry campaign. Mr. Henry here is handling the money in this county. He is going to build up an organization strong enough to defeat all of you men who

are not with Newberry. You are going to be defeated if you don't get on and help elect him. The man who wants to be a candidate for State Senator against you is waiting for us to give him our support of the Newberry organization, along with his own, to put him across" (316, 317). Stuart declined.

In the same conversation the defendant Henry said that they had sent a good many of the men through the county and had already taken care of most of the townships, and that he was going to see that the men in the county that worked for Newberry would be against Stuart. An opposing candidate was announced and Stuart was defeated (316, 317).

He told William Lynch, of Bay County: "You always holler for stone roads. If you want any of my support for stone roads you will have to get out and hustle for Mr. Newberry," and said that the Stone Board would not get its appropriation if the members did not support Newberry (521).

Mr. King wrote Mr. Newberry on several occasions concerning the defendant Fletcher.

On May 18, 1918, he wrote as follows:

Yesterday afternoon I spent with Richard H. Fletcher, State Labor Commissioner, who is certainly doing yeoman service. He is simply going "sled length" and is doing mighty good work. You might write him a personal letter, if you will. His address is Lansing (739).

On August 6, 1918, in writing to Mr. Newberry concerning Midland County, Mr. King said:

In this county we have purposely held off on the recommendation of Labor Commissioner Fletcher, who is close to the situation here (866).

Fletcher had a conversation with Frank M. Sparks, a newspaper man, of Grand Rapids, in which something was said about the Newberry expenditures. Sparks said that rather than $176,000, the campaign must have cost nearer a half million, and Fletcher said: "A half million hell! It cost nearer 800,000, and I know what I am talking about" (251).

FRED HENRY.

A portion of the testimony against Henry is set out under the statement showing the defendant Fletcher's connection and will not be repeated here.

He was chairman of the Newberry committee for Genesee County (Flint) (151).

Fred Henry asked Hugh Madigan, of Flint, to support Newberry and said that he did not expect Madigan to devote his time for nothing and asked what he would expect if he would swing to Newberry, and Madigan told him $150. Henry said that he would expect him to devote all of his time and Madigan said he could not do it for the sum named, and that Henry then said if Madigan went out and devoted all his time he would get twice $150. At the time of the conversation he gave Madigan $15. Later he paid Madigan $50 in the lobby of a hotel. He asked Madigan to get poll workers throughout the factory to work at the polls on primary day. They had several talks on securing workers for the primary and Madigan recommended certain men who were afterwards employed and paid. After that Henry gave him $50 or $60. He received $10 twice between first

payment and the payment in the lobby (331 to 333).

He told Thomas J. Halligan that he would give him $50 a week until the primary if he would get out and work for Mr. Newberry. Halligan wanted more and Henry said he would see King and Fletcher. He told Halligan to go ahead and he would take care of him (365, 366).

He gave Pead Wynne Newberry cards. Wynne did some work and Henry gave him $50 (473).

He placed $10 in the pocket of Wilson Young (249, 250).

He gave Fray Diem a box partly filled with Newberry buttons and when Diem opened the box he found a $20 bill (368).

He gave Harry E. Corcoran two cigars wrapped in tin foil. On unwrapping them Corcoran discovered a $10 bill (480).

He told Madigan to see good workers, and he would let them know what was expected and "take care of them" (332).

A number of workers appeared at Henry's home one evening, and were seated on the porch. He called them into the house, one at a time, and gave them amounts ranging from $5 to $50 or $60 (332, 453, 454).

He employed J. Love to work at the polls, drove him to the election precinct, gave him some Newberry cards, and later $10 (483).

He asked Jesse H. Prescott "to line up 6 or 8 different men to work for the Newberry campaign at the Buick factory * * * that he would take care of them financially." He told Mr. Henry he would not support Mr. Newberry and

Henry said he was foolish; "that there was a chance to get a nice piece of change out of it; that he had just banked $2,000 and more was coming" (481).

He held a Newberry meeting in his house, which was attended by King and Fletcher, and men who received money from him. This was the night that King, Fletcher and Henry called upon McKeighan (333, 366, 368, 249).

He gave Wilson Young $10 on each of two occasions (249, 250).

B. FRANK EMERY.

After the selection of King as executive chairman, the first man employed by him was B. Frank Emery, upon a salary, first, of $200 a month and then of $300 (665). Emery helped to get the office force together (666).

He was the principal paymaster for the organization and his payments were largely made in cash.

Employees of all kinds were paid in cash (76, 80, 89, 92, 97, to 103, 131, 132, 147, 148).

Except for newspaper advertising very few payments were made by check. Practically all other bills were paid in cash. No receipts were taken (97 to 103, 163, 168, 171, 226, 248, 250, 419). The newspapers and a few other bills were paid by voucher checks and the vouchers destroyed (320, 677). The Blair report shows that $9,861.34 came to or passed through the hands of B. F. Emery, and, in addition, he is charged jointly in the report with H. O. Turner, with $19,059.74 (607).

The Blair report makes the following, among other charges, against Emery:

Clerical work in connection with speakers' bureau, through Emery and Turner, $1,789.55; expense of assistant secretaries in connection with speakers' bureau, through Emery and Turner, $1,987.50 (268); clerical expense in connection with mailing letters, through Emery and Turner, $10,791.31; clerical expense in connection with distribution of literature, through Emery and Turner, $849.28; postage for county committees, through Emery, $309.92; printing and stationery for county committees, through Emery, $260.50 (276); clerical expense of county committees, through Emery, $1,957.71; expenses of assistant secretaries in arranging public meetings, through Emery, $993.75; expenses of county committees in holding public meetings, through Emery, $372.80 (277); county committees rent, furniture, light, and other expenses, through Emery, $30 (278); expenses of county committees for telegraph and telephone, through Emery, $131.81; clerical expense in general office in connection with securing and transcribing lists of voters, through Emery, $894.27 (280).

A great deal of money of the Newberry committee was not kept in checking accounts. There was a vault in the Detroit headquarters, and " bunches of bills " were kept there in a box, to which the defendants Emery and Turner had sole access, and which they took out and distributed (147, 188, 80.)

On May 9, 1918, the defendant Emery rented a safety deposit box in the First and Old National Bank of Detroit. Money of the Newberry com-

mittee was kept in this vault, and many visits were paid to it by the defendants Emery and Turner. At first Emery alone went, and later the defendant Turner. On Turner's first visit he was refused the privilege of the box, but was later vouched for by the defendant Smith, manager of the Newberry estate, who had his office with the office of Mr. Truman H. Newberry. The money from the safety deposit vault was distributed, and the use of checks avoided (128, 131).

Mr. Blair, the treasurer, deposited some money in the Union Trust Company of Detroit, and this money was paid out on checks O. K'd by Emery (127).

Money contributed by the defendant John S. Newberry was delivered to Emery in cash (311, 312).

Emery went into Crawford County and called upon a banker, Marius Hanson. He informed Mr. Hanson that he was there in Mr. Newberry's interest, and asked about the sentiment in the county, etc., and picked up a magazine, put it in front of Mr. Hanson, and underneath or in the magazine was a fifty-dollar bill (304, 305).

King had informed Newberry that Emery was going to Crawford County to complete the organization, and that they hoped to have it backed up by the Hansons (753).

Scott Hunter went up to the Newberry headquarters at Detroit and Emery gave him $300.00 in cash. He spent the money for liquor and cigars and returned when Emery again gave him $300.00, which he spent in the same way (484, 485).

August Kelly received a letter from the defendant Reed, and in response went to the Newberry

Senatorial headquarters in Detroit, and talked to Emery who employed him at $25 a week and expenses to go to Alpena County and circulate petitions. Emery gave him the blank forms at headquarters. The Newberry committee paid him a little more than $200 for this (171, 172). He paid Francis O. Lindquist $4,557 for political work arranged for by Mr. Templeton (306 to 310). He, Turner and Floyd paid Allan K. Moore approximately $3,600 in cash. The activities of Moore appear under the Floyd statement. He gave $50 to J. Burt Keily (324), Newberry officer for Roscommon County (154).

Mr. King employed Angus G. MacEachron to talk among traveling men. He told Mr. King that in his order, the United Commercial Travelers of America, politics could not be talked in the council room, but they could talk about whatever they pleased just before and just after their meetings, and said he would call where there were meetings. These meetings were held on Saturday nights, and MacEachron visited various cities of the State. Mr. King agreed to pay him fifty dollars per week and expenses. He was paid $850.00, about $500.00 salary and the balance expenses. He included cigars for himself and others as expenses. The money was all paid in cash by Emery and Turner (404 to 406). He asked Willis R. Harrison to get up a rally, and gave him $25. Later he gave him $14.15 for rental and moving of piano and advertising (576). He paid cash for voters lists (161).

Emery visited Mr. Newberry in New York (228). He was busy over the state and Mr. Newberry was so informed (753, 766, 767, 768).

HARRY O. TURNER.

A considerable portion of the evidence against Turner is set out under the statement of the defendant Emery's activities, to which reference is made to avoid repetition.

He was an assistant secretary, active in Detroit headquarters, and, with Emery, is jointly charged in the Blair report with $19,059.74.

In the Blair report, he is charged specifically with $43.89, while the pay-roll record of the committee shows $1,743.25 (607).

Mr. Newberry was advised about Mr. Turner as well as Mr. Emery. On May 2 Mr. King wrote him: " I am going to try to spend more time out in the State and less time in the office. Now that it has gotten to run so smoothly I am sure Mr. Emery and Mr. Turner will get along all right " (713).

ELBERT V. CHILSON.

The speakers' bureau in connection with Newberry Headquarters was presided over by the defendant Elbert V. Chilson (82). He looked after speaking dates and arrangements, and paid numerous speakers (341, 342, 343, 363, 365, 546, 547, 591, 657, 658). On July 6 Mr. King wrote Mr. Newberry: " Our Speakers' Bureau is getting organized and is rapidly getting in position to furnish speakers for grange picnics, rallies, etc." (825).

Mr. Chilson asked Mr. Charles C. Simons, of Detroit, to make some speeches for Mr. Newberry, and he made six or seven. Mr. Chilson told him to send in his bill, and he charged and received $200, and a " small item of expense " (546, 547).

Mr. Chilson asked Roy Herald, of Highland Park, Michigan, to make some speeches for Mr. Newberry. He spoke at Big Rapids and received $153.25, and made four speeches in Detroit, for which he received ninety dollars (341, 342).

Charles P. O'Neil, of Detroit, at the request of Chilson, who said he would be recompensed for his expenses and time, made several speeches for Mr. Newberry and received $300 (343).

John Smolenski, of Grand Rapids, was asked to address a meeting of Polish people at Gaylord, Michigan, and did so. Chilson wrote him asking for a statement of his expenses and services (362 to 364).

Chilson arranged with colored men to speak at a Sunday meeting in a colored church, and settled with them (591).

Other activities of Chilson are set out under the statement concerning defendant Ladd.

The activities of defendant Chilson, head of the Speakers' Bureau, were not confined to that department. There were times when he acted in the capacity of a field agent and there were numerous occasions on which he passed out Newberry money.

He called upon William H. Porter in Lansing and told him he was there to get some one to look after Mr. Newberry's interests in his candidacy and asked Mr. Porter if he would take hold of the matter in the county and organize it. He said there was an organization to boost Mr. Newberry's candidacy and there was money enough in sight to finance the campaign. Porter said to him: "You and I have been in politics a good many years and you know I never took a dollar for any work I did or for expenses." Chilson asked him

if he had anyone in mind he would recommend (340).

Chilson gave Marshall Campell, of Ingham County, $15 to repay him for money Campbell had given to somebody else in Mr. Newberry's behalf (488, 489).

He took blank Helme petitions to Frank Bovee, of Lansing, and gave him $20 and said: "That will do to pay for the man you have to circulate them" (364, 365).

In a talk with Frank P. Robards at Hillsdale, Michigan, Chilson said he had been at the Newberry headquarters in Detroit, "that the boys were doing business, that they had tapped the barrel, and the first thing they gave the city committee $50,000 for their influence for Newberry; that they were spending money like drunken sailors" (329).

The Blair report shows expenses through Chilson in connection with county committees and for traveling expenses (276, 277, 278, 279).

JAMES F. McGREGOR.

James F. McGregor was an assistant secretary of the Newberry committee (276, 277, 279, 280) and a field agent in charge of the Upper Peninsula of Michigan (680, 681). He was in company with King there (159) and with Floyd (400). He, with King, called upon M. E. Richards, who was asked to and became chairman of the Newberry committee for Iron County. McGregor paid him in the neighborhood of $60.

He directed H. S. Jennings, an officer of the Newberry organization in Alger County, about

getting out the vote on primary day. He asked him to arrange for autos and workers on primary day, and said the Newberry Central Committee had made an apportionment of money to spend on primary day all over the state and that Alger County had been allotted $300 (189, 190). A short time later G. Sherman Collins, of Munising, who was associated with Mr. Jennings on the committee, received a check for $300 from Detroit on the Commonwealth Savings Bank, cashed the check and gave the money to Jennings (233, 234).

He attempted to employ Albert J. Young to take the management of the Newberry campaign in the northern part of Michigan (85, 86).

He made the statement in a hotel at Munising that he was going down to New York to see the Commodore (Newberry), and somebody suggested that he get another $176,000. McGregor replied: "We are going to get a real barrel this time" (189, 190).

The Blair report shows $3,010.57 to have passed from the committee to or through McGregor. Included in this was traveling expenses amounting to $599.60 (279), and $866.25 salary (280). His salary was greatly in excess of the amount shown by the report. He was employed more than twenty weeks and received a salary of $75 per week (680, 681).

Mr. McGregor telegraphed King and Floyd from many places concerning the condition in every county in the Upper Peninsula of Michigan with the exception of Alger and Keweenaw (381, 388, 389, 390). He stated in the telegrams that Marquette would "have complete committee as the rest" and named men in charge

(389); that a named county was "fine" (393), others "in good shape" (404, 494, 495, 496), another in "best of condition" (400), another "splendid"; that in others the organization was complete (494, 496); that a named county was for Newberry (393).

On August 21st he made "a good deal" for Iron County. It was expected that the "deal" he made would "land" Iron County for Mr. Newberry and the same day he telegraphed both King and Floyd of his success (p. 393).

He went to Detroit for conferences with King (388, 495), received telegrams of congratulations from him (388), and directions to get in touch with local Newberry officials in the Upper Peninsula (388, 391).

He visited the local officials, made drives over the territory with them (400, 401, 402), and was in telegraphic communication with them (392, 403, 495).

He telegraphed Emery: "Yelland of Escanaba wired me have you sent Bohn what I asked" (495). Yelland and Bohn were respectively county chairmen of the Newberry committee in Delta and Luce Counties (150, 153). He received telegrams from Emery and Chilson (388, 395).

On October 25 he presented a card at Sault Ste. Marie, bearing his name "Assistant Secretary, Truman H. Newberry Senatorial Committee," etc. He dictated a letter to Truman H. Newberry, acknowledging receipt of a letter, and said that in reply "will give you more information with reference to the Upper Peninsula." He gave a full and detailed account of the situation in seven counties (164 to 167).

At the time of Mr. McGregor's appointment as field agent Mr. Newberry wrote Mr. King: "All the men you have selected seem peculiarly adapted for their various districts, and I am particularly glad that you have found an opportunity to use Jim McGregor, which I know will please Mr. Warren, his friend" (704).

WILLIAM J. MICKEL.

James W. Helme was a candidate for United States Senator on the Democratic ticket at the 1918 primary, and his candidacy was "fostered and financed" by the defendants. (Brief for Plaintiffs in Error, p. 20.)

Helme was induced by the defendants to become a candidate.

Mickel, who had been a state dairy and food commissioner under Helme, was asked to call upon the defendant Floyd at the Newberry headquarters in Grand Rapids in June, 1918, and went there and talked with the defendants King and Floyd. He made a second trip to the headquarters, and they asked him if he had in mind any man to run for United States Senator on the Democratic ticket, and he suggested Helme. They asked him to write Helme, and prevail upon him to become a candidate. Mickel did so. Helme declined, and Mickel so informed King and Floyd, and they requested him to write again. He did, with the same result. They then said they would have somebody from Lansing see Helme. Later, he received a letter from Helme stating that he had changed his mind and would run, but that it was getting late to get nominating petitions in

on time. Mickel talked with Floyd and King about this, and they said they could have the necessary names on the petitions within twenty-four hours. Mickel suggested that they hire men to circulate petitions, and they told him they had men they could send to the Great Lakes and Camp Custer and they would pay them fifty dollars each and ten cents per name. Men were named by them who would look after procuring signatures throughout the state, and among them the defendants Fletcher, James Davis, and Welsh. He ordered stationery to be paid for by the Newberry committee, was given $20 per month by them to pay office expenses, and $50 per week to be given to Helme. He said the Newberry committee gave him $400 or $500 and promised to pay him for his work (624, 625, 626, 675, 676).

The money which was expended in behalf of Mr. Helme was furnished by the Newberry Senatorial Committee. They paid for the printing of Helme's primary petitions. They paid the rent for Helme headquarters. The organization became very active in his behalf. The defendant Castator had seen at least one prominent man in Detroit and attempted to persuade him to get Helme in the race (246, 247). When Helme entered, Castator, very active in the Newberry organization, went out circulating petitions. The defendant Charles Deland, Newberry manager for Jackson county, had the Helme petitions and paid Van Loomis twenty dollars to circulate them (89, 90). The defendant Fred Henry, Newberry manager for Genesee county, had the Helme petitions and offered George McKinley one hundred dollars to circulate them

(245, 246). The defendant, Richard Fletcher, Newberry manager for Bay County, gave Terry Kelly fifty dollars to circulate Helme petitions (219, 220). The defendant Rice, very active for Mr. Newberry, went to Chicago, and procured a large number of petitions for Helme in the Great Lakes Training School. Some money was paid by him (369, 370).

The defendant, George W. Welsh, secretary of the Kent County Newberry committee, and aid of Floyd in Grand Rapids headquarters, employed three men at five dollars per day each and expenses, to circulate Helme petitions in Grand Rapids, Grand Haven, Kalamazoo, and elsewhere, and authorized them to get others to circulate petitions and pay them ten cents for each name secured. He paid one man $30 plus railroad fare and hotel bill, another $25 and expenses, and reimbursed them for money they paid to get others to circulate petitions at ten cents per name (141, 142, 143, 144).

The defendant Chilson, head of the speakers' bureau at Detroit headquarters, gave Frank Boves, of Lansing, twenty dollars to circulate the Helme petitions (364, 365).

The defendant Bigger, a member of the organization in Calhoun County, tried to induce Benjamin O. Rush, of Kalamazoo, to circulate Helme petitions and offered him $25 for 250 names, or ten cents for every name secured (244, 621).

The defendant Matthews, chairman of the Newberry committee for Mason county, in conjunction with others, was interested in the circulation of Helme petitions in Mason county, and men were paid for circulating them there (233).

The idea in financing Helme's campaign was to nominate a candidate it would be easy for Mr. Newberry to defeat.

Mickel attended a convention at Saginaw, and made the statement that he was a Democrat but was going to work for Newberry; that he was going to put up some man on the Democratic ticket who wouldn't have any show, and would do that if he had to run himself. In the conversation he mentioned Mr. Helme's name (147, 148).

At the same convention Mickel seconded a resolution by the Spanish American War Veterans indorsing the candidacy of Mr. Newberry (298).

He made five trips to Adrian, Michigan, to see Mr. Helme and urge him to become a candidate, and finally did induce him by false representations that Democrats in Western Michigan were anxious for his candidacy, and had raised $500 to back him, and by a forged telegram, purporting to come from Grand Rapids Democrats (907–908).

The Bolo Club was furnished money by the Newberry organization (297, 298, 285, 532, 370) to assist Mr. Newberry, and Mickel was very active in this line (297, 298, 147, 148, 440).

Mickel had the Helme petitions printed by the defendant Rice and paid for them (285). He rented Helme headquarters at a hotel in Grand Rapids (286).

He was in Muskegon with Newberry advertising and said to William Moore: "This is our man." Later Mickel again saw Moore and had Helme petitions. He told Moore he was going to the Great Lakes Training Station and get some names (344).

Edward Freusdorf was present at a conversation between Mickel and Helme, in which the candidacy of Helme was discussed. Freusdorf spoke of the publicity Helme was receiving from surprising sources, remarked that it was a peculiar situation, and Mickel said either "They have all been fixed," or "That has been all fixed" (440).

Mickel saw Benjamin Barendsen about renting a room from him for Helme headquarters, and said the payment of the rent would be taken care of by him, that Barendsen need not be afraid of the rent; that it "would come all right, because it would come from the Newberry headquarters"; that he was representing Helme, "getting him in the field." He spoke of "long, green," and said he "was in it for the money that was in it." (541).

JOHN S. NEWBERRY.

John S. Newberry's direct connection with the transactions was the giving by him to the Newberry committee, sums aggregating $99,900. This consisted of twenty-nine contributions, ranging from $1,000 to $10,000 (281, 282).

Checks were drawn on Mr. John S. Newberry's account, and then the currency was delivered to the defendant Emery, or the defendant Smith (311).

John S. Newberry is a brother of Truman S. Newberry (43). He authorized his bank account to be used for the benefit of the campaign (44).

GEORGE S. LADD.

The defendant George S. Ladd is a resident of Sturbridge, Massachusetts, and has never resided

in the State of Michigan. During the campaign of 1918 he received a letter from Horatio S. Earle, asking him to come to Michigan. When he arrived at Detroit, approximately August 1st, he was told by Mr. Earle that it was the desire to elect Mr. Newberry Senator from Michigan, and asked whether or not Ladd would take the stump, and told him from the work he had done in the road campaign as a speaker he thought he could help. Earle escorted him to the Newberry headquarters, where Ladd met King and Chilson. Earle had told him that he wanted him to go on the speaking bureau, and introduced him to Chilson as the manager of the speaking bureau. Chilson mapped out the territory which Ladd was to cover and gave him $100 in cash at the time of the first meeting. Ladd was not advertised as speaking for Newberry, but was advertised as speaking in favor of good roads, and other subjects, at farmers' meetings. They told Ladd that his work would be more effective if he was not introduced as speaking for Newberry. He stayed in the State about four weeks, spoke about every other day, and went back to Detroit every two or three days and reported to Earle and King and to receive his itinerary from Chilson. He went wherever Chilson sent him, but was unable to name a single city, town, or county in which he spoke for Mr. Newberry. There were places in which he was barred from speaking. He was in the Detroit headquarters at various times. When he was given $100 cash by Chilson he gave no receipt for it. Just before he left Michigan Chilson gave him a draft for $350.

Prior to the time Mr. Ladd was taken to the Newberry headquarters and introduced to King and Chilson he had never met them, and he had no acquaintance with Mr. Newberry. In order to prepare him for the speeches he was to make throughout Michigan, Mr. Chilson gave Mr. Ladd the Newberry pamphlets for him to read. He took these pamphlets to the hotel the first day he was there and thus prepared for his speeches (624, 657,658, 659, 660).

On August 20th Mr. King wrote Mr. Newberry that meetings were being held in the State, inclosed the schedule of the State speaker, referred to others, and said that former master of the State grange, Ladd of Massachusetts, was on the stump (896).

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NEWBERRY ET AL. *v.* UNITED STATES.

ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MICHIGAN.

No. 559. Argued January 7, 10, 1921.—Decided May 2, 1921.

1. Section 8 of the "Federal Corrupt Practices Act " (June 25, 1910, c. 392, 36 Stat. 822; amended August 19, 1911, c. 33, 37 Stat. 25), which undertakes to limit the amount of money which any candidate for the office of Representative in Congress or of United States Senator shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination or election, is unconstitutional. So *held*, as applied to a primary election of candidates for a seat in the Senate. P. 247.
2. The power of Congress over elections of Senators and Representatives has its source in § 4 of Art. I of the Constitution, which provides: "The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of chusing Senators." P. 247.

3. An indefinite, undefined power in Congress over elections of Senators and Representatives, not derived from Art. I, § 4, cannot be inferred from the fact that the offices were created by the Constitution, or by assuming that the Government must be free from any control by the States over matters affecting the choice of its officers,—a false assumption, ignoring powers clearly vested in the States under the Constitution and the federal character of the Government. P. 249.
4. Elections, within the original intendment of § 4 of Art. I, were those wherein Senators should be chosen by legislatures and Representatives by voters possessing "the qualifications requisite for electors of the most numerous branch of the State Legislature." Art. I, §§ 2 and 3. P. 250.
5. The Seventeenth Amendment neither announced nor requires a new meaning of election, and the word now has the same general significance as it did when the Constitution came into existence,—final choice of an officer by the duly qualified electors. P. 250.
6. Primaries are in no sense elections for office, but merely methods by which party adherents agree upon candidates whom they intend to offer and support for ultimate choice by all qualified electors. P. 250.
7. The Seventeenth Amendment does not modify Art. I, § 4, the source of congressional power to regulate the times, places and manner of holding elections; that section remains intact and applicable to the election of both Representatives and Senators. P. 252.
8. The Act of June 4, 1914, c. 103, 38 Stat. 384, providing a temporary method of conducting the nomination and election of Senators, sheds no light on the power of Congress to regulate primaries and conventions. P. 253.
9. Even if the Seventeenth Amendment gave power to regulate primaries for the choice of senatorial candidates, its adoption did not validate the earlier penal statute on the subject (Act of 1910-1911, *supra*, par. 1); an after-acquired power cannot *ex proprio vigore* validate a statute void when enacted. P. 254.
10. Section 2 of the Act of June 4, 1914, *supra*, if it could be regarded as an attempt to regulate nominations of Senators, based on the Amendment, would have no bearing on a prosecution under the Act of 1910-1911, for conduct occurring after that section expired by its own limitation. P. 254.
11. The power to control party primaries for designating candidates for the Senate is not within the grant of power "to regulate the manner of holding elections" (Art. I, § 4),—neither within the

fair intendment of the words used nor the meaning ascribed to them by the framers of the Constitution; it is not necessary in order to effectuate the power expressly granted (Art. I, § 8, cl. 18); and its exercise would interfere with purely domestic affairs of the States and infringe upon liberties reserved to the people. P. 256.

Reversed.

WRIT of error to a conviction and sentence under an indictment charging conspiracy to violate the Federal Corrupt Practices Act. The case is stated in the opinion, *post*, 243.

Mr. Charles E. Hughes, with whom *Mr. James O. Murfin*, *Mr. Martin W. Littleton* and *Mr. George E. Nichols* were on the briefs, for plaintiffs in error:

The statutory provision in question is without constitutional authority. Article I, § 4, of the Constitution, is the only provision of the Constitution which can be invoked in the attempt to find authority for the legislation upon which this prosecution is based. *United States* v. *Gradwell*, 243 U. S. 476, 481, 482. The power thus conferred upon Congress is a limited one, confined to regulations of "the times, places and manner of holding elections."

The qualifications of electors, and of those who might be elected, are defined in other provisions. It is apparent that while Congress should have the power to regulate the times, places and manner of holding elections, it was not intended otherwise to detract from the freedom of the people of the States with respect to their political activities. The conditions with respect to suffrage in the several States, at the time of the adoption of the Constitution, are stated in *Minor* v. *Happersett*, 21 Wall. 162, 172. Each State had determined for itself who should have the right to vote, and, in creating the new government, it was provided, with respect to the choice of members of the House, that "the electors in each State shall have the qualifications requisite for electors

of the most numerous branch of the state legislature" (Art. I, § 2); and with respect to the Senators that they should be "chosen by the legislature" of each State (Art. I, § 3). And when the Seventeenth Amendment was adopted, a provision was made with respect to the qualifications of electors similar to that which obtains in the case of electors of the members of the House.

With these provisions as to qualifications of electors, the measure of control given to Congress was the control of "the times, places and manner of holding elections" with the exception as to "the places of chusing Senators." As to the Senate, the extent of the power was to regulate the "*time*" and "*manner*." The Federalist, No. LX. See, also, Farrand, Records of Federal Convention, vol. 3, pp. 194, 195, 267, 311, 319, 344, 345, 359.

The sole question then is whether the statute is a regulation of the "manner of holding elections."

The "*election*" is the choice of the Senator or Representative, and the "*holding*" of the election is the taking of the vote to determine the choice. The regulation of the "*manner*" of holding elections is manifestly the regulation of the way in which the vote to determine the choice shall be taken and registered.

As Congress has the power to regulate the taking of the vote, Congress has the power to protect the qualified voters in exercising their right to vote at the time when the vote is taken. Congress also has the power to supervise the taking of the vote in order to make sure that the vote is duly taken, and Congress may also prescribe how the vote shall be counted and the result registered. In this power to regulate there would be involved the power to protect the voter in the casting of his vote, to protect the evidence of the vote, to insure freedom from any improper tampering with the vote or with the counting of the vote or with the registration of its result.

Congress is thus authorized to surround the election,

that is, the taking of the vote, with appropriate safeguards and with such adequate supervision as will insure to the voter the free exercise of his right and establish the choice as shown by the vote properly taken and counted. *Ex parte Siebold*, 100 U. S. 371, 396; *Ex parte Yarbrough*, 110 U. S. 651, 661; *United States* v. *Mosley*, 238 U. S. 383; *In re Coy*, 127 U. S. 731, 752.

The history of the action of Congress under the authority conferred by Art. I, § 4, reviewed by Mr. Justice Clarke in *United States* v. *Gradwell*, *supra*, 482–484, is most instructive. A distinction is at once apparent between the regulation of the manner of holding elections, in order to protect the rights of the voter and to secure a fair count, and the attempt to interfere with or control the activities of the people of the States in the conduct of political campaigns. In other words, if we assume the validity of regulations which protect each qualified voter in the exercise of his right to vote and which provide for the supervision of the casting of the vote and the proper ascertainment of the result, then the question is whether Congress can go further and attempt to control the educational campaign. Upon what ground can it be said that Congress can provide how many meetings shall be held, where meetings shall be held, how many speakers shall be allowed to speak for a candidate, how many circulars may be distributed, how many committees may act in behalf of a candidate, how they shall be organized and what shall be the limit of their honest activity?

In the exercise of the power conferred, prior to the legislation now under consideration, Congress always dealt with the election and the conduct of the election, and never with the nominating process.

If it be said that it was not the intention of Congress by this legislation to regulate the "election," but to impose a restriction upon the candidate as an individual, the act nevertheless would be invalid.

The so-called "nominating primary" was unknown at the time of the adoption of the Constitution; it is a development of comparatively recent years. The nominating primary, like the nominating convention and its predecessor, the caucus, is not the "election." The nominating process is distinct from the election, and it was so regarded at the time of the adoption of the Constitution.

What the term "elections" meant at the time of the adoption of the Constitution, it means now. See *Hawke* v. *Smith*, 253 U. S. 221, 227, 228, involving the meaning of the word "legislatures," as used in Article V with respect to the ratification of amendments. The ruling in that case is not at all at variance with the familiar decisions that when a constitutional provision embodies a certain concept, whatever is properly within the concept is embraced within the words of the Constitution, although it lay far beyond the vision of the framers of the Constitution. *In re Debs*, 158 U. S. 564, 591; *Hammer* v. *Dagenhart*, 247 U. S. 251.

No one would have the hardihood to suggest that within the meaning of the framers of the Constitution the word "elections" had reference to anything else than the taking of the vote for Senators or Representatives.

At the time of the adoption of the Constitution, the nomination process was a very simple one. No one could have confused it with an "election." Nominations were early made at the caucus, which was either an informal gathering of the voters of a particular district or a "legislative" or "congressional" caucus. It was not regulated by law and no one regarded it as an "election." Later, the caucus gave way to the nominating convention to which delegates were chosen. But no one supposed that the nominating convention was an "election." It is only recently that nominating conventions have been subject to legal regulation in the States. The introduction of the so-called primary system was simply

another phase of the nominating process. The primary was no more an "*election*," within the meaning of the Constitution, than the nominating convention or the caucus was an "election." It is a mere accidental circumstance that because of the method adopted in the primary there has come into use the expression "primary election." The present use of this term has nothing to do with the meaning of "elections" as used in Art. I, § 4.

In providing that Congress might substitute its regulation for that of the States with reference to the "election" the framers of the Constitution had reference to a very distinct subject of regulation, to-wit, the "election" itself. There had been no attempt to regulate by law the nominating process. There was nothing at the time of the adoption of the Constitution, or for approximately a hundred years after, which savored of an attempt to regulate the political activities of citizens so far as these related to nominations.

It follows then that the Constitution used a term with a well-defined meaning. There is nothing in the knowledge, spirit or conditions of the times which suggests any purpose to widen that term so to embrace that which according to its natural significance it did not embrace. It is inconceivable that, had there been any intention to delegate power to regulate the process of nominations, the framers of the Constitution would have been content to provide for the regulation of the "times, places and manner of holding elections."

We think there is far more to be said for the proposition that the word "legislatures" in Art. V referred to those who legislated whether a representative body or the people themselves than to say that the word "*elections*" in Art. I, § 4, embraces the nominating process.

Even under state constitutions the term "elections" does not embrace so-called "primary elections" when the term refers to the election of public officers.

State v. *Erickson*, 119 Minnesota, 152, 156; *State* v. *Taylor*, 220 Missouri, 618, 631; *Zent* v. *Nichols*, 50 Washington, 508, 522; *Ledgerwood* v. *Pitts*, 122 Tennessee, 570, 587; *State* v. *Woodruff*, 68 N. J. L. 89, 94; *Commonwealth* v. *Wells*, 110 Pa. St. 463, 468; *People* v. *Cavanaugh*, 112 California, 674, 676, 677, and other cases, including *United States* v. *O'Toole*, 236 Fed. Rep. 993, 996 (heard with *United States* v. *Gradwell*, 243 U. S. 476, and affirmed).

We find in Art. I, § 6, subdiv. 2, the provision that "No Senator or Representative shall, during the time for which he was *elected*, be appointed to any civil office under the authority of the United States," etc. It is obvious that the word "*elected*" does not mean "nominated." And the Senator or Representative is elected at the "*election*" and not before.

The "elections" of Representatives to which Art. I, § 4, refers, and the manner of holding which may be regulated by Congress, are the "elections" at which the "electors," to whom reference is made in Art. I, § 2, vote. It is because they vote at the "elections" for members of the House that they are called "electors." But the term "electors" like the term "elections" has no reference to a nominating primary. If Congress has the power to regulate a nominating primary, it has also the power to regulate a nominating convention and the vote of delegates at a nominating convention.

We venture to say that there is not a word in the Constitution, or in any contemporary document, which can be tortured into a support of the view that "*elections*" in Art. I, § 4, comprehends any nominating system.

The meaning of the word "elections" is not extended by the expression "*manner of holding*" elections, for the manner of holding the election is necessarily limited to the election which is held.

If Congress under Art. I, § 4, has the power which

it has sought to exercise in the statute in question, it has the power to *abolish all primary elections* for Senators and Representatives in every State of the Union. It has the power to establish conventions, to overthrow conventions, to provide any sort of a primary that it may desire to provide. Such interferences with the rights and privileges of the citizens of the several States have no warrant in the Constitution.

The Solicitor General and *Mr. Frank C. Dailey*, Special Assistant to the Attorney General, for the United States:

A Senator being an officer of the United States holding an office created by the Constitution and constituting a part of the Federal Government, all matters relating to his election belong to the Government of the United States, which has the same power over them that the States have over matters relating to the election of state officers, unless restricted by the Constitution itself.

It is assumed in the argument in behalf of the plaintiffs in error that the only power which Congress has over the election of Senators and Representatives is derived from Art. I, § 4, of the Constitution, relating to the times, places, and manner of holding such elections. This is by no means true. That section, on the contrary, contains only a grant of power to the States to be exercised subject to the control of Congress, in the exercise of a power which would be its, even if this section were not in the Constitution.

The Government of the United States is not a confederation of States. It is a government ordained by the people of the United States and, within the sphere of its powers, wholly independent of the state governments. A Senator or a Representative in Congress holds an office which was created by the Constitution. He is chosen not by the States but by that portion of the people of the United States who reside in the State in which he

is elected. He is an officer not of any State but of the Federal Government. *Lamar* v. *United States*, 241 U. S. 103, 112. Unless, therefore, the Constitution itself indicates a contrary intention, his election is a matter which concerns only the Federal Government and in no way a state government. It would certainly be an anomaly if one government had the unrestricted power to control matters affecting the choice of the officers of another and entirely independent government. Control of matters relating to the selection of those who are to function as a part of a particular government would seem necessarily to inhere in that government itself. *Ex parte Yarbrough*, 110 U. S. 651, 657.

It is true that the Constitution fixes the qualification of voters by reference to state laws. This does not mean, however, that the voter derives his right to vote from the State rather than from the Constitution of the United States. *Ex parte Yarbrough*, *supra*, 663.

Whatever power the States have over matters relating to the election of federal officers is not one of their reserved powers but a power expressly conferred by the Constitution.

The only power conferred on the States by the Constitution over matters relating to the election of Senators and Representatives is expressly made subordinate to the power of Congress over the same matter. Const., Art. I, § 4; Seventeenth Amdt. In effect, what was done by § 4 was to provide that the first Congress should be elected through the use of the election machinery of the various States, and that this method of electing congressmen should continue, except as Congress might, from time to time, see fit to alter it or to supplant it with election machinery of its own. If, therefore, the power to make regulations relating to primary elections is included in the power to prescribe the manner of holding elections, the exercise of this power is subject to the

control of Congress. Whatever power the States may exert over congressional or senatorial primaries, in the absence of action by Congress, may be exerted under the express provision of § 4 by Congress whenever deemed necessary.

If Congress has no power to make regulations of the kind now involved, neither have States, and there is no power anywhere which can control and prevent excessive expenditures by candidates for senatorial or congressional nominations. And yet, practically, and to all intents and purposes in many States, the most important and decisive act in the choosing of officers is the nomination.

The States undoubtedly have the power to regulate primary elections for the selection of candidates for state offices, because such regulations are necessary to protect the integrity of elections themselves. For the same reason Congress has the power to regulate primary elections for choosing candidates for federal offices.

Ample authority to sustain this legislation is found in Art. I, § 4, of the Constitution, even if the necessary power must be derived from that section; and, even if the word "elections" as there used is not construed as including primary elections, the law is still constitutional. This section must be read in connection with the last clause of Art. I, § 8, which confers upon Congress the power to make all laws which shall be necessary and proper for carrying into execution the powers expressly granted. *Ex parte Siebold*, 100 U. S. 371, 396; *Ex parte Yarbrough*, 110 U. S. 651, 658; *United States* v. *Gradwell*, 243 U. S. 476, 482.

Manifestly, this provision of the Constitution grew out of the conviction that it would be suicidal for the new government to commit to any other government a controlling power over the choosing of its officers without reserving to itself a supervisory power. For a State to

arrange its election laws by providing for two elections, the first for the purpose of reducing the number of candidates and the second for the purpose of choosing between the surviving candidates, is, in many States, for all practicable purposes, equivalent to choosing the officials in the first or primary elections.

MR. JUSTICE MCREYNOLDS delivered the opinion of the court.

Plaintiffs in error—Truman H. Newberry, Paul H. King and fifteen others—were found guilty of conspiring (Criminal Code, § 37) to violate § 8, Act of Congress approved June 25, 1910, c. 392, 36 Stat. 822–824, as amended by Act of August 19, 1911, c. 33, 37 Stat. 25–29,—The Federal Corrupt Practices Act—which provides: "No candidate for Representative in Congress or for Senator of the United States shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election, any sum, in the aggregate, in excess of the amount which he may lawfully give, contribute, expend, or promise under the laws of the State in which he resides: *Provided*, That no candidate for Representative in Congress shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding five thousand dollars in any campaign for his nomination and election; and no candidate for Senator of the United States shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding ten thousand dollars in any campaign for his nomination and election: *Provided further*, That money expended by any such candidate to meet and discharge any assessment, fee, or charge made or levied upon candidates by the laws of the State in which he resides, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery

and postage, writing or printing (other than in newspapers), and distributing letters, circulars, and posters, and for telegraph and telephone service, shall not be regarded as an expenditure within the meaning of this section, and shall not be considered any part of the sum herein fixed as the limit of expense and need not be shown in the statements herein required to be filed."

Act No. 109, § 1, Michigan Legislature, 1913, prohibits expenditure by or on behalf of a candidate, to be paid by him, in securing his nomination, of any sum exceeding twenty-five per centum of one year's compensation; and puts like limitation upon expenditures to obtain election after nomination. Section 1 is copied below.[1]

Taken with the state enactment, the federal statute in effect declares a candidate for the United States Senate punishable by fine and imprisonment, if (except for cer-

[1] Act No. 109, Michigan Legislature, 1913:

"Section 1. No sums of money shall be paid, and no expenses authorized or incurred by or on behalf of any candidate to be paid by him in order to secure or aid in securing his nomination to any public office or position in this State, in excess of twenty-five per cent of one year's compensation or salary of the office for which he is candidate: *Provided*, That a sum not exceeding fifty per cent of one year's salary may be expended by the candidates for Governor and Lieutenant Governor; or where the office is that of member of either branch of the Legislature of the State, the twenty-five per cent shall be computed on the salary fixed for the term of two years: *Provided further*, That no candidate shall be restricted to less than one hundred dollars in his campaign for such nomination. No sums of money shall be paid and no expense authorized or incurred by or on behalf of any candidate who has received the nomination to any public office or position in this State, in excess of twenty-five per cent of one year's salary or compensation of the office for which he is nominated; or where the office is that of member of either branch of the Legislature of the State, the twenty-five per cent shall be computed on the salary fixed for the term of two years: *Provided*, That no candidate shall be restricted to less than one hundred dollars. No sum of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate contrary to the provisions of this act."

tain specified purposes) he give, contribute, expend, use, promise or cause to be given, contributed, expended, used or promised in procuring his nomination and election more than $3,750.00—one-half of one year's salary. Under the construction of the act urged by the Government and adopted by the court below it is not necessary that the inhibited sum be paid, promised or expended by the candidate himself, or be devoted to any secret or immoral purpose. For example, its open and avowed contribution and use by supporters upon suggestion by him or with his approval and coöperation in order to promote public discussion and debate touching vital questions or to pay necessary expenses of speakers, etc., is enough. And upon such interpretation the conviction below was asked and obtained.

The indictment charges: That Truman H. Newberry became a candidate for the Republican nomination for United States Senator from Michigan at the primary election held August 27, 1918; that by reason of selection and nomination therein he became a candidate at the general election, November 5, 1918; that he and 134 others (who are named) at divers times from December 1, 1917, to November 5, 1918, unlawfully and feloniously did conspire, combine, confederate, and agree together to commit the offense on his part of wilfully violating the Act of Congress approved June 25, 1910, as amended, by giving, contributing, expending, and using and by causing to be given, contributed, expended and used, in procuring his nomination and election at said primary and general elections, a greater sum than the laws of Michigan permitted and above ten thousand dollars, to wit, $100,000.00, and on the part of the other defendants of aiding, counseling, inducing, and procuring Newberry as such candidate to give, contribute, expend, and use or cause to be given, contributed, expended and used said large and excessive sum in order to procure his nomination

and election. Plaintiffs in error were convicted under count one, set out in the margin.[1]

(COUNT ONE)

[1] That Truman H. Newberry, Chase S. Osborne, Henry Ford and William B. Simpson, before and on August 27, 1918, were candidates for the Republican nomination for the office of Senator in the Congress of the United States from the State of Michigan at the primary election held in said State on that day under the laws of said State, and Henry Ford and James Helm, before and on said August 27, 1918, were candidates for the Democratic nomination for the same office at said Primary election; that from said August 27, 1918, to and including November 5, 1918, said Truman H. Newberry and said Henry Ford, by reason of their election and nomination at said Primary election, became and were opposing candidates for election to the office of Senator in the Congress of the United States from said State of Michigan at the general election held in said State on said November 5, 1918, —said Truman H. Newberry of the Republican Party and said Henry Ford of the Democratic Party,—each of said candidates having, on said August 27, 1918, and said November 5, 1918, attained to the age of thirty years and upwards and been a citizen of the United States for more than nine years and each then being an inhabitant and resident of said State; and that said Truman H. Newberry, Paul H. King [and 133 others], hereinafter called the defendants, continuously and at all and divers times throughout the period of time from December 1, 1917, to and including said November 5, 1918, at and within said Southern Division of said Western District of Michigan, unlawfully and feloniously did conspire, combine, confederate and agree together, and with divers other persons to said grand jurors unknown, to commit an offense against the United States, to-wit, the offense on the part of said Truman H. Newberry of wilfully violating the Act of Congress approved June 25, 1910, as amended by the Acts of August 19, 1911, and August 23, 1912, by giving, contributing, expending and using and by causing to be given, contributed, expended and used, in procuring his nomination and election as such Senator at said primary and general elections, a sum, in the aggregate, in excess of the amount which he might lawfully give, contribute, expend, or use, or cause to be given, contributed, expended or used for such purpose under the laws of said State of Michigan, to-wit the sum of one hundred thousand dollars, and by giving, contributing, expending and using and causing to be given, contributed, expended and used in procuring his nomination and election as such Senator, at said primary and

The court below overruled a duly interposed demurrer which challenged the constitutionality of § 8; and by so doing we think fell into error.

Manifestly, this section applies not only to final elections for choosing Senators but also to primaries and conventions of political parties for selection of candidates. Michigan and many other States undertake to control these primaries by statutes and give recognition to their results. And the ultimate question for solution here is whether under the grant of power to regulate "the manner of holding elections" Congress may fix the maximum sum which a candidate therein may spend, or advise or cause to be contributed and spent by others to procure his nomination.

Section 4, Art. I, of the Constitution provides: "The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State

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general elections, a sum in the aggregate, in excess of ten thousand dollars, to-wit, said sum of one hundred thousand dollars, and on the part of said other defendants of aiding, counseling, inducing and procuring said Truman H. Newberry so to give, contribute, expend and use and cause to be given, contributed, expended and used said large sum of money in excess of the amounts permitted by the laws of the State of Michigan and the said Acts of Congress; the same to be money so unlawfully given, contributed, expended and used by said Truman H. Newberry and by him caused to be given, contributed, expended and used as such candidate for the following and other purposes, objects and things, to-wit:

Advertisements in newspapers and other publications;

Print paper, cuts, plates and other supplies furnished to newspaper publishers;

Subscriptions to newspapers;

Production, distribution and exhibition of moving pictures;

Traveling and subsistence expenses of campaign managers, public speakers, secret propagandists, field, district and county agents and solicitors, and of voters not infirm or disabled;

Compensation of campaign managers, public speakers and secret propagandists, and of field, district and county agents and solicitors;

Appropriating and converting to the use of the defendants them-

by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." Here is the source of congressional power over the elections specified. It has been so declared by this court—*Ex parte Siebold*, 100 U. S. 371; *United States* v. *Gradwell*, 243 U. S. 476, 481—and the early discussions clearly show that this was then the accepted opinion. The Federalist, LVIII, LIX, LX; Elliot's Debates, vol. II, 50, 73, 311; vol. III, 86, 183, 344, 375; vol. IV, 75, 78, 211.

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selves, and each of them, large sums of money under the guise and pretense of payment of their expenses and compensation for their services;

Rent of offices and public halls;

Bribery of election officials;

Unlawful assistance of election officials;

Bribery of voters;

Expenses and compensation of Democratic obstructionist candidates at the primary election;

Expenses and compensation of detectives;

Dinners, banquet and other entertainments given to persons believed to be influential in said State of Michigan;

And no part of which said money was to be money expended by said Truman H. Newberry, as such candidate, to meet or discharge assessments, fees, or charges made or levied upon candidates by the laws of said State, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), or for distributing letters, circulars, or postage, or for telegraph or telephone service, or for proper legal expenses in maintaining or contesting the results of either of said elections.

[38 distinct and separate overt acts are specified].

And so the grand jurors aforesaid, upon their oaths aforesaid, do say, that said defendants, continuously and at all and divers times throughout the period of time in this count mentioned, at and within said division and district, in manner and form in this count aforesaid, unlawfully and feloniously did conspire to commit an offense against the United States, and certain of them did do acts to effect the object of the conspiracy; Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

We find no support in reason or authority for the argument that because the offices were created by the Constitution, Congress has some indefinite, undefined power over elections for Senators and Representatives not derived from § 4. "The government, then, of the United States, can claim no powers which are not granted to it by the Constitution, and the powers actually granted, must be such as are expressly given, or given by necessary implication." *Martin* v. *Hunter's Lessee*, 1 Wheat. 304, 326. Clear constitutional provisions also negative any possible inference of such authority because of the supposed anomaly "if one government had the unrestricted power to control matters affecting the choice of the officers of another." Mr. Iredell (afterwards of this court) in the North Carolina Convention of 1788, pointed out that the States may—must indeed—exert some unrestricted control over the Federal Government. "The very existence of the general government depends on that of the state governments. The state legislatures are to choose the senators. Without a Senate there can be no Congress. The state legislatures are also to direct the manner of choosing the President. Unless, therefore, there are state legislatures to direct that manner, no President can be chosen. The same observation may be made as to the House of Representatives, since, as they are to be chosen by the electors of the most numerous branch of each state legislature, if there are no state legislatures, there are no persons to choose the House of Representatives. Thus it is evident that the very existence of the general government depends on that of the state legislatures." Elliot's Debates, vol. IV, p. 53. See also The Federalist, XLIV. The federal features of our Government are so clear and have been so often declared that no valuable discussion can proceed upon the opposite assumption.

Undoubtedly elections within the original intendment

of § 4 were those wherein Senators should be chosen by Legislatures and Representatives by voters possessing "the qualifications requisite for electors of the most numerous branch of the State Legislature." Art. I, §§ 2 and 3. The Seventeenth Amendment, which directs that Senators be chosen by the people, neither announced nor requires a new meaning of election and the word now has the same general significance as it did when the Constitution came into existence—final choice of an officer by the duly qualified electors. *Hawke* v. *Smith*, 253 U. S. 221. Primaries were then unknown. Moreover, they are in no sense elections for an office, but merely methods by which party adherents agree upon candidates whom they intend to offer and support for ultimate choice by all qualified electors. General provisions touching elections in constitutions or statutes are not necessarily applicable to primaries—the two things are radically different. And this view has been declared by many state courts. *People* v. *Cavanaugh*, 112 California, 674; *State* v. *Erickson*, 119 Minnesota, 152; *State* v. *Taylor*, 220 Missouri, 618; *State* v. *Woodruff*, 68 N. J. L. 89; *Commonwealth* v. *Wells*, 110 Pa. St. 463; *Ledgerwood* v. *Pitts*, 122 Tennessee, 570.

Sundry provisions of the Constitution indicate plainly enough what its framers meant by elections and the "manner of holding" them. "The House of Representatives shall be composed of members chosen every second year by the people of the several States." "No person shall be a Representative. . . who shall not, when elected, be an inhabitant of that State in which he shall be chosen." "When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies." "Immediately after they [the Senators] shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes." "No person

shall be a Senator . . . who shall not, when elected, be an inhabitant of that State for which he shall be chosen." "Each House shall be the judge of the elections, returns and qualifications of its own members." "No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office," etc. "The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows." "The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected." And provisions in the Seventeenth Amendment are of like effect.

The plain words of the Seventeenth Amendment and those portions of the original Constitution directly affected by it, should be kept in mind. Art. I, § 3—"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes." "And if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies." Seventeenth Amendment—"The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures. When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall

issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct. This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution."

As finally submitted and adopted the Amendment does not undertake to modify Art. I, § 4, the source of congressional power to regulate the times, places and manner of holding elections. That section remains "intact and applicable both to the election of Representatives and Senators." (Cong. Rec., vol. 46, p. 848.) When first reported, January 11, 1911, by Senator Borah for the Judiciary Committee, the proposed Seventeenth Amendment contained a clause providing, "The times, places and manner of holding elections for Senators shall be as prescribed in each state by the legislature thereof "— the avowed purpose being thereby to modify § 4, Art. I, by depriving Congress of power to regulate the *manner of holding elections* for Senators. (A copy of the original resolution as presented to the Senate is in the margin.)[1]

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[1] S. J. Res., 134, 61st Congress, Cong. Rec., vol. 46, p. 847.

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That in lieu of the first paragraph of section 3 of Article I of the Constitution of the United States, and in lieu of so much of paragraph 2 of the same section as relates to the filling of vacancies, and in lieu of all of paragraph 1 of section 4 of said Article I, in so far as same relates to any authority in Congress to make or alter regulations as to the times or manner of holding elections for Senators, the following be proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States:

" 'The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof for six years; and each

Upon recommendation of a minority of the Judiciary Committee this clause was eliminated and reference to § 4, Art. I, omitted from the Resolution. After prolonged debate in the 61st and 62nd Congresses the Amendment in its present form was submitted for ratification. See Sen. Rep. 961, 61st Cong., 3rd sess.; Sen. Rep. 35, 62nd Cong., 1st sess.; Cong. Rec. vol. 46, pp. 847, 851, *et seq.*; vol. 47, *passim*, and pp. 1924, 1925, 1936.

Apparently because deemed unimportant no counsel on either side referred to "An Act Providing a temporary method of conducting the nomination and election of United States Senators," approved June 4, 1914, c. 103, 38 Stat. 384. To show its irrelevancy and prevent misapprehension the act is copied in the margin.[1] Section

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Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

"'The times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof.

"'When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election, as the legislature may direct.

"'This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.'"

[1] Act of June 4, 1914, c. 103, 38 Stat. 384.

"An Act Providing a temporary method of conducting the nomination and election of United States Senators.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That at the regular election held in any State next preceding the expiration of the term for which any Senator was elected to represent such State in Congress, at which election a Representative to Congress is regularly by law to be chosen, a United States Senator from said State shall be elected by the people thereof for the term commencing on the fourth day of March next thereafter.

2, which contains the only reference to nomination of candidates for Senator, expired by express limitation June 4, 1917, more than a year prior to the conduct here challenged. The act has no criminal provisions, makes no reference to the earlier statute upon which this prosecution is founded and sheds no light on the power of Congress to regulate primaries and conventions. Its terms indicate intention that the machinery for designating party candidates shall remain under state control. But in no view can an attempt to exercise power be treated as conclusive evidence that Congress possesses such power. Otherwise serious discussion of constitutional limitations must cease. Moreover, the criminal statute now relied upon antedates the Seventeenth Amendment and must be tested by powers possessed at the time of its enactment. An after-acquired power can not *ex proprio vigore* validate a statute void when enacted. See Sutherland Stat. Constr., 2nd ed., vol. I, § 107.

A concession that the Seventeenth Amendment might

"Sec. 2. That in any State wherein a United States Senator is hereafter to be elected either at a general election or at any special election called by the executive authority thereof to fill a vacancy, until or unless otherwise specially provided by the legislature thereof, the nomination of candidates for such office not heretofore made shall be made, the election to fill the same conducted, and the result thereof determined, as near as may be in accordance with the laws of such State regulating the nomination of candidates for and election of Members at Large of the National House of Representatives: *Provided*, That in case no provision is made in any State for the nomination or election of Representatives at Large, the procedure shall be in accordance with the laws of such State respecting the ordinary executive and administrative officers thereof who are elected by the vote of the people of the entire State: *And provided further*, That in any case the candidate for Senator receiving the highest number of votes shall be deemed elected.

"Sec. 3. That section two of this Act shall expire by limitation at the end of three years from the date of its approval."

Approved, June 4, 1914.

be applicable in this controversy if assisted by appropriate legislation would be unimportant since there is none. Section 2, Act of June 4, 1914, had expired by express limitation many months before Newberry became a candidate, and counsel very properly disregarded it.

Because deemed appropriate in order effectively to regulate the manner of holding general elections, this court has upheld federal statutes providing for supervisors and prohibiting interference with them, declaring criminal failure by election officers to perform duties imposed by the State, and denouncing conspiracies to prevent voters from freely casting their ballots or having them counted. *Ex parte Siebold*, 100 U. S. 371; *Ex parte Clarke*, 100 U. S. 399; *Ex parte Yarbrough*, 110 U. S. 651; *In re Coy*, 127 U. S. 731; *United States* v. *Mosley*, 238 U. S. 383. These enactments had direct and immediate reference to elections by the people and decisions sustaining them do not control the present controversy. Congress clearly exercised its power to regulate the manner of holding an election when it directed that voting must be by written or printed ballot or voting machines. c. 154, 30 Stat. 836.

Section 4 was bitterly attacked in the State Conventions of 1787–1789, because of its alleged possible use to create preferred classes and finally to destroy the States. In defense, the danger incident to absolute control of elections by the States and the express limitations upon the power, were dwelt upon. Mr. Hamilton asserted: "The truth is that there is no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect, or be elected. But this forms no part of the power to be conferred upon the National Government. Its authority would be expressly restricted to the regulation of the *times*, the *places*, and the *manner* of elections. The qualifications of the persons who may choose, or be chosen, as has been remarked upon other occasions, are defined and fixed

in the Constitution, and are unalterable by the Legislature." The Federalist, LIX, LI. The history of the times indicates beyond reasonable doubt that, if the Constitution makers had claimed for this section the latitude we are now asked to sanction, it would not have been ratified. See Story on the Const., §§ 814, *et seq.*

Our immediate concern is with the clause which grants power by law to regulate the "*manner of holding* elections for Senators and Representatives"—not broadly to regulate them. As an incident to the grant there is, of course, power to make all laws which shall be necessary and proper for carrying it into effect. Art. I, § 8, cl. 18. Although the Seventeenth Amendment now requires Senators to be chosen by the people, reference to the original plan of selection by the legislatures may aid in interpretation.

Who should participate in the specified elections was clearly indicated—members of state legislatures and those having "the qualifications requisite for electors of the most numerous branch of the state legislature." Who should be eligible for election was also stated. "No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen." "No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen." Two Senators were allotted to each State and the method was prescribed for determining the number of Representatives. Subject to these important limitations, Congress was empowered by law to regulate the times, places and manner of holding the elections, except as to the places of choosing Senators. "These words are used without any veiled or obscure significance" but in their natural and usual sense.

If it be practically true that under present conditions a designated party candidate is necessary for an election—a preliminary thereto—nevertheless his selection is in no real sense part of the manner of holding the election. This does not depend upon the scheme by which candidates are put forward. Whether the candidate be offered through primary, or convention, or petition, or request of a few, or as the result of his own unsupported ambition, does not directly affect the manner of holding the election. Birth must precede but it is no part of either funeral or apotheosis.

Many things are prerequisites to elections or may affect their outcome—voters, education, means of transportation, health, public discussion, immigration, private animosities, even the face and figure of the candidate; but authority to regulate the manner of holding them gives no right to control any of these. It is settled, *e. g.*, that the power to regulate interstate and foreign commerce does not reach whatever is essential thereto. Without agriculture, manufacturing, mining, etc., commerce could not exist, but this fact does not suffice to subject them to the control of Congress. *Kidd* v. *Pearson*, 128 U. S. 1.

Elections of Senators by state legislatures presupposed selection of their members by the people; but it would hardly be argued that therefore Congress could regulate such selection. In the Constitutional Convention of 1787, when replying to the suggestion that state legislatures should have uncontrolled power over elections of members of Congress, Mr. Madison said: "It seems as improper in principle, though it might be less inconvenient in practice, to give to the state legislatures this great authority over the election of the representatives of the people in the general legislature, as it would be to give to the latter a like power over the election of their representatives in the state legislatures." Supplement to Elliot's Debates, vol. V, p. 402.

We cannot conclude that authority to control party primaries or conventions for designating candidates was bestowed on Congress by the grant of power to regulate the manner of holding elections. The fair intendment of the words does not extend so far; the framers of the Constitution did not ascribe to them any such meaning. Nor is this control necessary in order to effectuate the power expressly granted. On the other hand, its exercise would interfere with purely domestic affairs of the State and infringe upon liberties reserved to the people.

It should not be forgotten that, exercising inherent police power, the State may suppress whatever evils may be incident to primary or convention. As "Each House shall be the judge of the elections, returns and qualifications of its own members," and as Congress may by law regulate the times, places and manner of holding elections, the National Government is not without power to protect itself against corruption, fraud or other malign influences.

The judgment of the court below must be reversed and the cause remanded for further proceedings in conformity with this opinion.

Reversed.

MR. JUSTICE MCKENNA concurs in this opinion as applied to the statute under consideration which was enacted prior to the Seventeenth Amendment; but he reserves the question of the power of Congress under that Amendment.

MR. CHIEF JUSTICE WHITE, dissenting from the opinion, but concurring with a modification in the judgment of reversal:

The conviction and sentence under review were based on an indictment charging a conspiracy to commit vio-

lations of the act of Congress known as the Corrupt Practices Act, as made applicable to state laws dealing with state nominating primaries for, and the ensuing state elections of, United States Senators and Representatives in Congress. The case is here by direct writ of error, because of the contention that primaries of that character are not subject to the regulating power of Congress, and as an incident there is involved the contention that, even if the act of Congress was constitutional, it had been prejudicially misconstrued. Sustaining the first of these contentions and therefore deciding the act to be unconstitutional, the court reverses and finally disposes of the case. Although I am unable to concur in the conclusion as to the want of power of Congress and in the judgment of reversal as rendered, I am nevertheless of opinion that there should be a judgment of reversal without prejudice to a new trial, because of the grave misapprehension and grievous misapplication of the statute upon which the conviction and sentence below were based. I state the reasons which control me as to both these subjects.

By an amendment to the Corrupt Practices Act of 1910, Congress, in 1911, dealt with state primaries for the nomination of Senators and Representatives in Congress and with the election after nomination of such candidates (Act of June 25, 1910, c. 392, 36 Stat. 822; Act of August 19, 1911, c. 33, § 8, 37 Stat. 25, 28). At that time there existed in the State of Michigan a law regulating state nominating primaries which included candidates for state offices as well as for the Senate and House of Representatives of the United States. These primaries were held in the month of August in each year preceding the November general election. By that law the result of the primaries determined the right to have a person's name placed as a candidate on the ballot at the general election, and, in the case of United States Senators,

provision was made for the return of the result of the primary to the state legislature before the time when the duty of that body to elect a Senator would arise.

The Seventeenth Amendment to the Constitution, providing for the election of United States Senators by popular vote, was promulgated in May, 1913. In June, 1914, Congress by legislation carrying out the Amendment provided that thereafter Senators should be elected by popular vote, and, where state laws to that effect existed, made them applicable. But, evidently to give time for the States to enact the necessary legislation substituting for election by the legislature the method of election established by the Amendment, it was provided that, where no law for primaries by popular vote as to Senators existed, that subject should be controlled by the state law regulating primaries for the nomination of Representative at Large, if provided for, and if not, by the provisions controlling as to primaries for general state officers, the operation of these latter provisions being expressly limited to a term of three years (Act of June 4, 1914, c. 103, 38 Stat. 384). Within the time thus fixed and before the election which was held in this case, the State of Michigan, in order to conform its laws to the Amendment, modified them so as to provide for the election of Senators by popular vote, and made the general nominating state primary law applicable to that condition (Act No. 156, Mich. Acts of 1915), and, by virtue of the Amendment, the act of Congress, and the state law just stated, the primary with which we are concerned in this case was held in August, 1918.

The plaintiff in error, Newberry, was a candidate for the nomination of the Republican party as United States Senator, and, having been nominated at such primary, became a candidate at the ensuing November election, and was returned as elected. Subsequently the indictment under which the conviction below was had was

presented, charging him and others, in six counts, with a conspiracy to commit violations of provisions of the Corrupt Practices Act relating to state nominating primaries as well as to the resulting general election. It is not at this moment necessary to describe the nature of these accusations further, since it is not questioned that the indictment charged a conspiracy to commit crimes within the intendment of the Corrupt Practices Act and hence involved the question of the constitutional power of Congress which the court now adversely decides and the basis for which I now come to consider.

As the nominating primary was held after the adoption of the Seventeenth Amendment, the power must have been sanctioned by that Amendment, but for the purpose of clarity I consider the question of the power, first from the provisions of the Constitution as they existed before the Amendment, and second in contemplation of the light thrown upon the subject by the force of the Amendment.

The provisions of §§ 2 and 3 of Article I of the Constitution, fixing the composition of the House of Representatives and of the Senate and providing for the election of Representatives by vote of the people of the several States and of Senators by the state legislatures, were undoubtedly reservoirs of vital federal power constituting the generative sources of the provisions of § 4, cl. 1, of the same Article, creating the means for vivifying the bodies previously ordained (Senate and House), that is, providing: "The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

As without this grant no state power on the subject was possessed, it follows that the state power to create primaries as to United States Senators depended upon

the grant for its existence. It also follows that, as the conferring of the power on the States and the reservation of the authority in Congress to regulate were absolutely coterminous, except as to the place of choosing Senators which is not here relevant, it results that nothing is possible of being done under the former which is not subjected to the limitation imposed by the latter. And this is illustrated by the legislation of Congress and the decisions of this court upholding the same. See, "Act to regulate the Times and Manner of holding Elections for Senators in Congress," approved July 25, 1866, 14 Stat. 243; Act of May 31, 1870, 16 Stat. 144; Act of July 14, 1870, 16 Stat. 254; Act of June 10, 1872, 17 Stat. 347; *Ex parte Siebold*, 100 U. S. 371; *Ex parte Clarke*, 100 U. S. 399; *Ex parte Yarbrough*, 110 U. S. 651; *United States* v. *Mosley*, 238 U. S. 383.

But it is said that, as the power which is challenged here is the right of a State to provide for and regulate a state primary for nominating United States Senators free from the control of Congress, and not the election of such Senators, therefore, as the nominating primary is one thing and the election another and different thing, the power of the State as to the primary is not governed by the right of Congress to regulate the times and manner of electing Senators. But the proposition is a suicidal one, since it at one and the same time retains in the State the only power it could possibly have as delegated by the clause in question and refuses to give effect to the regulating control which the clause confers on Congress as to that very power. And mark, this is emphasized by the consideration that there is no denial here that the States possess the power over the federal subject resulting from the provision of the Constitution, but a holding that Congress may not exert as to such power to regulate authority which the terms of the identical clause of the Constitution confer upon it.

But, putting these contradictions aside, let me test the contention from other and distinct points of view: (1) In last analysis the contention must rest upon the proposition that there is such absolute want of relation between the power of government to regulate the right of the citizen to seek a nomination for a public office and its authority to regulate the election after nomination, that a paramount government authority having the right to regulate the latter is without any power as to the former. The influence of who is nominated for elective office upon the result of the election to fill that office is so known of all men that the proposition may be left to destroy itself by its own statement.

(2) Moreover, the proposition, impliedly at least, excludes from view the fact that the powers conferred upon Congress by the Constitution carry with them the right "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers" (Art. I, § 8, cl. 18), and in doing so virtually disregards the previous legislative history and the decisions of this court sanctioning the same, to which we have referred, since that practice and those decisions unmistakably recognize that the power under the clause in question extends to all the prerequisite and appropriate incidents necessary to the discharge of the authority given.

(3) From a somewhat different point of view the same result is even more imperatively required. Thus, as has been seen, the election was had under the Seventeenth Amendment to the Constitution, providing for the election of Senators by popular vote instead of by the state legislatures. In the resolution providing for the passage of that Amendment through Congress, as first reported by Senator Borah on behalf of the judiciary committee, after making the changes necessary to substitute a provision causing Senators to be elected by popular vote instead of by the legislatures of the several States, the

provision of § 4 of Article I reserving to Congress the power "to make or alter," except as to places, the regulations adopted by the several States as to the "times, places and manner" of electing Senators, was omitted, thus leaving all power on the subject in the States, free from any regulating control of Congress. (S. Rep. 961, 61st Cong., 3d sess.)

There was division, however, concerning the matter, manifested by a proposition to amend the resolution, as reported, so as to retain the omitted provision, thus preserving the power of Congress as originally conferred (Cong. Rec., vol. 46, Part 1, p. 847). The legislative situation thus created was aptly stated by Senator Borah, referring to the report of the committee and to the proposition (submitted by Senator Sutherland of Utah) to amend that report and the resolution accompanying it. He said:

"In reference to the amendment which has been suggested by the Senator from Utah [Mr. Sutherland], it was considered at some length before the committee. The proposition is a simple one. As the joint resolution now stands, the times, places, and manner of electing United States Senators is left entirely to the State. The State may determine the rules and regulations, and the times, places, and manner of holding elections for United States Senators.

"If the amendment as offered by the Senator from Utah should prevail, then the matter would be left as it now is, subject to the supervision and control of Congress." [1]

After much consideration, the amendment offered by Senator Sutherland was carried.[2] But the reported resolution, as thus amended, did not pass during that Congress. In the first session of the following Congress, however, the 62d Congress, a resolution identical in

[1] Cong. Rec., vol. 46, Part 1, p. 851.

[2] Cong. Rec., vol. 46, Part 4, p. 3307.

terms with the one which had been reported in the Senate at the previous session was introduced in the House and passed the same.[1] In the Senate the House resolution was favorably reported from the committee by Senator Borah,[2] accompanied, however, by a minority report by Senator Sutherland,[3] offering as a substitute a resolution preserving the complete power of Congress, as had been provided for in the Senate in the previous Congress, and an amendment to the same effect offered by Senator Bristow was subsequently adopted,[4] and as thus amended the resolution was ultimately submitted for ratification, and, as we have seen, was ratified and promulgated. (38 Stat. 2049.)

When the plain purpose of the Amendment is thus seen, and it is borne in mind that, at the time it was pending, the amendment to the Corrupt Practices Act dealing with state primaries for nominating United States Senators which is now before us was in the process of consideration in Congress, and when it is further remembered that, after the passage of the Amendment, Congress enacted legislation, so that the Amendment might be applied to state senatorial primaries, there would seem to be an end to all doubt as to the power of Congress.

It is not disputable that originally instructions to representatives in state legislatures by party conventions or by other unofficial bodies, as to the persons to be elected as United States Senators, were resorted to as a means of indirectly controlling that subject and thus, in a sense, restricting the constitutional provision as to the mode of electing Senators. The potentiality of instructions of that character to accomplish that result is

[1] H. Rep., No. 2, 62d Cong., 1st sess.
[2] Cong. Rec., vol. 47, Part 1, p. 787.
[3] S. Rep., No. 35, 62d Cong., 1st sess.
[4] Cong. Rec., vol. 47, Part 2, p. 1205.

amply shown by the development of our constitutional institutions as regards the electoral college, where it has come to pass that the unofficial nomination of party has rendered the discharge of its duties by the electoral college a mere matter of form. That in some measure at least a tendency to that result came about under the constitutional direction that Senators should be elected by the people [legislatures] would appear not doubtful. The situation on this subject is illustrated by a statement in a treatise by Haynes on "Election of Senators," 1906, p. 132, as follows:

"Notwithstanding our rigid Constitution's decree that the senators from the several States shall be elected by 'the legislatures thereof,' this act of the legislatures may be deprived of nearly all of its vitality. The election of President offers an illustration of the filching of actual power away from the electors in whom it is vested by law. When James Russell Lowell, a Republican elector for Massachusetts in 1876, was urged to exercise his independence and vote for Tilden, he declined, saying that 'whatever the first intent of the Constitution was, usage had made the presidential electors strictly the instruments of the party which chose them.' The Constitution remains unchanged, yet presidential electors recognise that they have been stripped of all discretion. It appears that under certain conditions the election of Senators by state legislatures has been and can be made an equally perfunctory affair."

The growth of the tendency to make the indirect result thus stated more effective evidently was the genesis of the statutory primary to nominate Senators. See statement concerning an amendment to the constitution of Nebraska on that subject as early as 1875, in the same treatise, p. 141.

The large number of States which at this day have by law established senatorial primaries shows the develop-

ment of the movement which originated so long ago under the circumstances just stated. They serve to indicate the tenacity of the conviction that the relation of the primary to the election is so intimate that the influence of the former is largely determinative of the latter. I have appended in the margin a statement from a publication on the subject,[1] showing how well founded this conviction is and how it has come to pass that in some cases at least the result of the primary has been in substance to render the subsequent election merely perfunctory. Under these conditions I find it impossible to say that the admitted power of Congress to control and regulate the election of Senators does not embrace, as

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[1] "In many western and southern states the direct primary method has been applied to the choice of United States senators as well as to state officers.[1] In the southern states, victory in such a primary, on the Democratic side, is practically the equivalent of an election, as there is but one effective party in that section of the country. The direct nomination of senators is generally accomplished under voluntary party regulations, as in Alabama, Arkansas, South Carolina, and Virginia. In other cases, however, this method of choice has been placed under legal protection, as in Florida (1901), Mississippi (1902), Louisiana (1906), and Texas (1907). Some northern states have also adopted this method of direct nomination. Among northern states, Wisconsin led the way in 1903, followed by Oregon in 1904, Montana in 1905, Iowa, Washington, Nebraska, North Dakota in 1907, Illinois, Kansas, New Jersey, Ohio, and Oklahoma in 1908. . . . In some of the states, as in Oregon, candidates for the legislature are afforded an opportunity to pledge themselves to vote for the party candidate receiving the highest vote in the regular election. In other cases a pledge is made to vote for the candidate receiving the highest number of votes in the primary.[2]" (Merriam, Primary Elections, 1908, pp. 83–85.)

[1] On this general topic, see the excellent treatise on The Election of Senators, by George H. Haynes (1906), especially c. XI.

[2] Oregon, 1904, § 13. In Washington the candidate may pledge himself to vote for the party choice for United States senator (1907, § 31). This latter is the general rule.

appropriate to that power, the authority to regulate the primary held under state authority.

(4) It is true that the plenary reservation in Congress of the power to control the States in the exercise of the authority to deal with the times, places, and manner of electing Senators and Representatives, as originally expressed in the Constitution, caused much perturbation in the conventions of the several States which were called upon to consider ratification, resulting from the fear that such power to regulate might be extended to and embrace the regulation of the election of the members of the state legislatures who were to exercise the power to elect Senators. It is further true that articles in the Federalist and other papers published at the time served to dispel the fear by directing attention to the fact that the regulating power of Congress only extended to the times and manner of electing Senators and did not include an authority, even by implication, to deal with the election of the state legislatures, which was a power reserved to the States. But this only served to emphasize the distinction between the state and federal power and affords no ground at this late day for saying that the reserved state power has absorbed and renders impossible of exercise the authority of Congress to regulate the federal power concerning the election of United States Senators, submitted, to the extent provided, to the authority of the States upon the express condition that such authority should be subordinate to and controlled by congressional regulation.

Can any other conclusion be upheld except upon the theory that the phantoms of attenuated and unfounded doubts concerning the meaning of the Constitution, which have long perished, may now be revived for the purpose of depriving Congress of the right to exert a power essential to its existence, and this in the face of the fact that the only basis for the doubts which arose in

the beginning (the election of Senators by the state legislatures) has been completely removed by the Seventeenth Amendment?

I do not stop to refer to the state cases concerning the distinction between state legislative power to deal with elections and its authority to control primaries, as I cannot discover the slightest ground upon which they could be apposite, since here an inherent federal right and the provision of the Constitution in dealing with it are the subjects for consideration.

Moreover, in passing, I observe that, as this case concerns a state primary law imposing obligatory results, and the act of Congress dealing with the same, it is obvious that the effect of individual action is wholly beside the issue.

The consequence to result from a denial to Congress of the right to regulate is so aptly illustrated by the case in hand that in leaving the question I refer to it. Thus, it is stated and not denied that, in the state primary in question, one of the candidates, as permitted by the state law, propounded himself at the primary election as the candidate for the nomination for Senator of both the Republican and the Democratic parties. If the candidacy had been successful as to both, the subsequent election would have been reduced to the merest form.

In view, then, of the plain text of the Constitution, of the power exerted under it from the beginning, of the action of Congress in its legislation, and of the amendment to the Constitution, as well as of the legislative action of substantially the larger portion of the States, I can see no reason for now denying the power of Congress to regulate a subject which from its very nature inheres in and is concerned with the election of Senators of the United States, as provided by the Constitution.

The indictment remains to be considered. It contained six counts. For the moment, it suffices to say that the

first four all dealt with a common subject, that is, a conspiracy between Newberry and others named to contribute and expend, for the purposes of the state primary and general election, more money than allowed by the Corrupt Practices Act. The fifth count charged a conspiracy on the part of the defendants to commit a great number, to wit, one thousand, offenses against the United States, each to consist of giving money and things of value to a person to vote for Newberry at said election, and a great number, to wit, one thousand, other offenses against the United States, each to consist of giving money and things of value to a person to withhold his vote from Henry Ford at said general election. The sixth count charged a conspiracy to defraud by use of the mails.

At the trial, before the submission of the case to the jury, the court put the fifth count entirely out of the case by instructing the jury to disregard it, as there was no evidence whatever to sustain it. The bribery charge, therefore, disappeared. The second, third and fourth counts, dealing, as I have said, with one general subject, were found by the court to be all in substance contained in the first count. They were, therefore, by direction of the court, either eliminated or consolidated with the first count. Thus, as contained in that count, the matters charged in the first four counts were submitted to the jury, as was also the sixth count; but the latter we need not further consider, as upon it there was a verdict of not guilty.

The case therefore reduces itself solely to the matters covered in the first count. That count charged a conspiracy on the part of the defendants, 135 in number, including Newberry, to commit an offense against the United States, that is, the offense on the part of Newberry of violating the Corrupt Practices Act by giving, contributing, expending and using and by causing to be given, contributed, expended and used, in procuring

his nomination and election as such Senator at said primary and general elections, a sum in excess of the amount which he might lawfully give, contribute, expend or use, and cause to be given, contributed, expended or used for such purpose under the laws of Michigan, and in excess of $10,000, to wit, the sum of $100,000; and on the part of the other defendants of aiding, counseling, inducing, and procuring Newberry as such candidate to give, contribute, expend and use, or cause to be given, contributed, expended or used, said large and excessive sum, in order to procure his nomination and election.

Conspiracy to contribute and expend in excess of the amount permitted by the statute was, then, the sole issue, wholly disassociated from and disconnected with any corrupt or wrongful use of the amount charged to have been illegally contributed and expended. As, putting out of view the constitutional question already considered, the errors assigned are based solely upon asserted misconstructions of the statute by the court in its charge to the jury, we bring the statute at once into view. It provides, so far as relevant to the case before us:

"No candidate for . . . Senator of the United States shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election, any sum, in the aggregate, in excess of the amount which he may lawfully give, contribute, expend, or promise under the laws of the State in which he resides: *Provided*, That . . . no candidate for Senator of the United States shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding ten thousand dollars in any campaign for his nomination and election: . . ."

Coming to deal with the statute, the court, after pointing out in the most explicit terms that the limitation on the amount which might be lawfully contributed and expended or caused to be contributed and expended in

the case at hand was $3,750 (that being the limitation imposed by the laws of Michigan adopted by the statute of the United States just quoted), then proceeded, over objections duly reserved, to instruct as to the significance of the statute, involved in the prohibitions, (a) against giving, contributing, expending, or using, and (b) against causing to be given, contributed, expended, or used, money in excess of that permitted by the statute, saying on these subjects as follows:

(a) "It is important, therefore, that you should understand the meaning of the language employed in this Corrupt Practices Act, and that you should understand and comprehend the effect and scope of the act, and the meaning of the language there employed, and the effect and scope and extent of the prohibition against the expenditure and use of money therein contained.

"The words 'Give, contribute, expend or use' as employed in this statute have their usual and ordinary significance, and mean furnish, pay out, disburse, employ, or make use of. The term 'To cause to be expended, or used' as it is employed in this statute, means to occasion, to effect, to bring about, to produce the expenditure and use of the money.

"The prohibition contained in this statute against the expenditure and use of money by the candidate is not limited or confined to the expenditure and use of his own money. The prohibition is directed against the use and expenditure of excessive sums of money by the candidate from whatever source or from whomsoever those moneys may be derived."

(b) "The phrase which constitutes the prohibition against the candidate 'Causing to be given, contributed, expended or used excessive sums of money,' is not limited and not confined to expenditures and use of money made directly and personally by himself. This prohibition extends to the expenditure and use of excessive sums of

money in which the candidate actively participates, or assists, or advises, or directs, or induces, or procures. The prohibition extends not only to the expenditure and use of excessive sums of money by the candidate directly and personally, but to such use and expenditure through his agency, or procurement or assistance.

"To constitute a violation of this statute knowledge of the expenditure and use of excessive sums of money on the part of the candidate is not sufficient; neither is it sufficient to constitute a violation of this statute that the candidate merely acquiesces in such expenditures and use. But it is sufficient to constitute a violation of this statute if the candidate actively participates in doing the things which occasion such expenditures and use of money and so actively participates with knowledge that the money is being expended and used."

Having thus fixed the meaning of the prohibitions of the statute, the court came to apply them as thus defined to the particular case before it, saying:

(c) "To apply these rules to this case: If you are satisfied from the evidence that the defendant Truman H. Newberry at or about the time that he became a candidate for United States Senator was informed and knew that his campaign for the nomination and election would require the expenditure and use of more money than is permitted by law and with such knowledge became a candidate, and thereafter by advice, by conduct, by his acts, by his direction, by his counsel, or by his procurement he actively participated and took part in the expenditure and use of an excessive sum of money, of an unlawful sum of money, you will be warranted in finding that he did violate this statute known as the Corrupt Practices Act."

Whether the instructions marked (a) and (b), if unexplained, were, in view of the ambiguity lurking in many of the expressions used therein, prejudicially

erroneous, I do not think necessary to consider, since I see no escape from the conclusion that the instruction marked (c), which made application of the view of the statute stated in the previous passages (a) and (b), was in clear conflict with the text of the statute and was necessarily of a seriously prejudicial nature, since in substance it announced the doctrine that, under the statute, although a candidate for the office of Senator might not have contributed a cent to the campaign or caused others to do so, he nevertheless was guilty if he became a candidate or continued as such after acquiring knowledge that more than $3,750 had been contributed and was being expended in the campaign. The error in the instruction plainly resulted from a failure to distinguish between the subject with which the statute dealt—contributions and expenditures made or caused to be made by the candidate—and campaign contributions and expenditures not so made or caused to be made, and therefore not within the statute.

There can be no doubt, when the limitations as to expenditure which the statute imposed are considered in the light of its context and its genesis, that its prohibitions on that subject were intended, not to restrict the right of the citizen to contribute to a campaign, but to prohibit the candidate from contributing and expending or causing to be contributed and expended, to secure his nomination and election, a larger amount than the sum limited as provided in the statute. To treat the candidacy, as did the charge of the court, as being necessarily the cause, without more, of the contribution of the citizen to the campaign, was therefore to confound things which were wholly different, to the frustration of the very object and purpose of the statute. To illustrate: Under the instruction given, in every case where to the knowledge of the candidate a sum in excess of the amount limited by the statute was contributed by citizens to the

campaign, the candidate, if he failed to withdraw, would be subject to criminal prosecution and punishment. So also, contributions by citizens to the expenses of the campaign, if only knowledge could be brought home to them that the aggregate of such contributions would exceed the limit of the statute, would bring them, as illustrated by this case, within the conspiracy statute and accordingly subject to prosecution. Under this view, the greater the public service, and the higher the character, of the candidate, giving rise to a correspondingly complete and self-sacrificing support by the electorate to his candidacy, the more inevitably would criminality and infamous punishment result both to the candidate and to the citizen who contributed.

As it follows from the considerations which I have stated that the judgment below was, in my opinion, clearly wrong and therefore should be reversed, it is not necessary that I should go further and point out how cogently under the case presented the illustrations just previously made apply to it. For the reasons stated, although I dissent from the ruling of the court as to the unconstitutionality of the act of Congress, I nevertheless think its judgment of reversal should be adopted, qualified, however, so as to reserve the right to a new trial.

MR. JUSTICE PITNEY, concurring in part:

I concur in the judgment reversing the conviction of plaintiffs in error, but upon grounds fundamentally different from those adopted by the majority: my view being that there is no constitutional infirmity in the act of Congress that underlies the indictment, but that there was an error in the submission of the case to the jury that calls for a new trial.

The constitutional question is so important that it deserves treatment at length.

The Federal Corrupt Practices Act (Act of June 25, 1910, c. 392, 36 Stat. 822; amended by Act of August 19, 1911, c. 33, 37 Stat. 25, 28) limits the amount of money that may be given, contributed, expended, used, or promised, or caused to be given, contributed, expended, used, or promised by a candidate for Representative in Congress or for Senator of the United States in procuring his nomination and election, to a sum not in excess of the amount he may lawfully give, contribute, expend, or promise under the laws of the State of his residence; with a proviso that in the case of a candidate for Representative the amount shall not exceed $5,000, and in the case of a candidate for Senator shall not exceed $10,000, in any campaign for nomination and election; and a further proviso that any assessment, fee, or charge made or levied upon candidates by the laws of the State, or moneys expended for the candidate's necessary personal expenses for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), and distributing letters, circulars, and posters, and for telegraph and telephone service, shall not be regarded as an expenditure or considered as a part of the sum fixed as the limit of expense. Section 10 of the act (36 Stat. 824), renumbered as § 11 by the amendment (37 Stat. 26), prescribes fine or imprisonment for a willful violation of any of its provisions. The act and amendment were passed before the adoption of the Seventeenth Amendment, providing for the election of Senators by direct vote of the people (declared adopted May 31, 1913; 38 Stat. 2049); but it is clear—indeed undisputed—that, for present purposes, they are to receive the same construction and effect as if enacted after adoption of the Amendment.

The present case arose out of a campaign for nomination and election of a Senator in the State of Michigan, where a statute (Act No. 109, § 1, Mich. Pub. Acts, 1913) limits the amount of money that may be paid, and of

232. PITNEY, BRANDEIS and CLARKE, JJ., concurring in part.

expenses that may be authorized or incurred by or on behalf of any candidate to be paid by him in order to secure his nomination to any public office in the State, to 25 per centum of one year's salary of the office, and imposes a similar limit upon expenditures by or on behalf of any candidate who has received the nomination. By § 19 of the same statute "public office" is made to apply to any national office filled by the voters of the State, as well as to the office of presidential elector and United States Senator. The acts of Congress, in connection with the statute of the State, limit the amount that a candidate for Senator of the United States may give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election, to $3,750 in the aggregate, aside from those expenditures that are specifically permitted without limit.

Plaintiffs in error were indicted and convicted in the United States District Court for a conspiracy (§ 37, Criminal Code) to commit an offense against the United States, to wit, the offense, on the part of Truman H. Newberry, of willfully violating the acts of Congress above referred to by giving, contributing, expending, and using, and by causing to be given, contributed, expended, and used, in procuring his nomination and election as Senator of the United States at the primary and general elections in the year 1918, a sum in excess of the amount thus limited, to wit, the sum of $100,000, and on the part of the other defendants of aiding, counseling, inducing, and procuring (§ 332, Criminal Code) said Truman H. Newberry so to give, contribute, expend, and use, and cause to be given, contributed, expended, and used said large sums of money in excess of the amounts permitted, etc.; no part of which money was to be expended for any of the purposes specifically permitted without limit; numerous overt acts being alleged to have been done by one

or more parties defendant to effect the object of the conspiracy.

The averments of the indictment and the evidence at the trial related especially to expenditures contemplated to be made, and in fact made, to bring about Mr. Newberry's selection at a nominating or primary election held in August, 1918, with only minor expenditures made after that date and in contemplation of the general election which was held in the following November. The case is brought to this court by direct writ of error, upon the fundamental contention that the acts of Congress, in so far as they assume to regulate primary elections and limit the expenditures of money that may be made or caused to be made by a candidate therein, are in excess of the power conferred upon Congress to regulate the "manner of holding elections for Senators and Representatives" by § 4 of Article I of the Constitution of the United States. This question was raised, but not decided, in *United States* v. *Gradwell*, 243 U. S. 476, 487–488; *Blair* v. *United States*, 250 U. S. 273, 278–279.

For reasons to be stated below, I consider it erroneous to treat the question as dependent upon the words of the cited section alone. I will, however, first deal with that section, viewing it in connection with other provisions immediately associated with it and here quoted:

"Article I. Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

"Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature . . . ."

232. PITNEY, BRANDEIS and CLARKE, JJ., concurring in part.

(Section 3 is superseded by the Seventeenth Amendment, which provides):

"Article XVII. The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, . . . The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures. . . ."

"Section 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators . . . .

"Section 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, . . ."

It is contended that Congress has no power to regulate the amount of money that may be expended by a candidate to secure his being named in the primary election; that the power "to regulate the manner of holding elections," etc., relates solely to the general elections where Senators or Representatives are finally chosen. Why should "the manner of holding elections" be so narrowly construed? An election is the choosing of a person by vote to fill a public office. In the nature of things it is a complex process, involving some examination of the qualifications of those from whom the choice is to be made and of those by whom it is to be made; some opportunity for the electors to consider and canvass the claims of the eligibles; and some method of narrowing the choice by eliminating candidates until one finally secures a majority, or at least a plurality, of the votes. For the process of elimination, instead of tentative elections participated in by all the electors, nominations by parties or groups of citizens have obtained in the United States from an early period. Latterly the processes of nomin-

ation have been regulated by law in many of the States, through the establishment of official primary elections. But in the essential sense, a sense that fairly comports with the object and purpose of a Constitution such as ours, which deals in broad outline with matters of substance and is remarkable for succinct and pithy modes of expression, all of the various processes above indicated fall fairly within the definition of "the manner of holding elections." This is not giving to the word "elections" a significance different from that which it bore when the Constitution was adopted, but is simply recognizing a content that of necessity always inhered in it. The nature of that instrument required, as Chief Justice Marshall pointed out in *McCulloch* v. *Maryland*, 4 Wheat. 316, 407, "that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects, be deduced from the nature of the objects themselves."

It is said that § 4 of Art. I does not confer a general power to regulate elections, but only to regulate "the manner of holding" them. But this can mean nothing less than the entire mode of procedure—the essence, not merely the form, of conducting the elections. The only specific grant of power over the subject contained in the Constitution is contained in that section; and the power is conferred primarily upon the legislatures of the several States, but subject to revision and modification by Congress. If the preliminary processes of such an election are to be treated as something so separate from the final choice that they are not within the power of Congress under this provision, they are for the same reason not within the power of the States, and, if there is no other grant of power, they must perforce remain wholly unregulated. For if this section of the Constitution is to be strictly construed with respect to the power granted to Congress thereunder, it must be construed with equal

strictness with respect to the power conferred upon the States; if the authority to regulate the "manner of holding elections" does not carry with it *ex vi termini* authority to regulate the preliminary election held for the purpose of proposing candidates, then the States can no more exercise authority over this than Congress can; much less an authority exclusive of that of Congress. For the election of Senators and Representatives in Congress is a federal function; whatever the States do in the matter they do under authority derived from the Constitution of the United States. The reservation contained in the Tenth Amendment cannot properly operate upon this subject in favor of the state governments; they could not reserve power over a matter that had no previous existence; hence if the power was not delegated to the United States it must be deemed to have been reserved to the people, and would require a constitutional amendment to bring it into play—a deplorable result of strict construction.

But if I am wrong in this, and the power to regulate primary elections could be deemed to have been reserved by the States to the exclusion of Congress, the result would be to leave the general Government destitute of the means to insure its own preservation without governmental aid from the States, which they might either grant or withhold according to their own will. This would render the Government of the United States something less than supreme in the exercise of its own appropriate powers: a doctrine supposed to have been laid at rest forever by the decisions of this court in *McCulloch* v. *Maryland*, 4 Wheat. 316, 405, *et seq.*; *Cohens* v. *Virginia*, 6 Wheat. 264, 381, 387, 414; and many other decisions in the time of Chief Justice Marshall and since.

But why should the primary election (or nominating convention) and the final election be treated as things so separate and apart as not to be both included in § 4 of

Article I? The former has no reason for existence, no function to perform, except as a preparation for the latter; and the latter has been found by experience in many States impossible of orderly and successful accomplishment without the former.

Why should this provision of the Constitution—so vital to the very structure of the Government—be so narrowly construed? It is said primaries were unknown when the Constitution was adopted. So were the steam railway and the electric telegraph. But the authority of Congress to regulate commerce among the several States was extended over these instrumentalities, because it was recognized that the manner of conducting the commerce was not essential. And this court was prompt to recognize that a transportation of merchandise, incidentally interrupted for a temporary purpose, or proceeding under successive bills of lading or means of transport, some operating wholly intra-state, was none the less interstate commerce, if such commerce was the practical and essential result of all that was done. *The Daniel Ball*, 10 Wall. 557, 565; *Southern Pacific Terminal Co.* v. *Interstate Commerce Commission*, 219 U. S. 498, 526, 527; *Ohio Railroad Commission* v. *Worthington*, 225 U. S. 101, 108, 110; *United States* v. *Union Stock Yard Co.*, 226 U. S. 286, 304; *Texas & New Orleans R. R. Co.* v. *Sabine Tram Co.*, 227 U. S. 111, 124.

Why is it more difficult to recognize the integral relation of the several steps in the process of election?

Congress, by the so-called Enforcement Act of May 31, 1870, c. 114, § 20, 16 Stat. 140, 145, and the supplement approved February 28, 1871, c. 99, §§ 1, 2, 3, 4, 16 Stat. 433, 434, prescribed a variety of regulations relating to elections of members of the House of Representatives, including provisions for safeguarding the registration of voters. These were carried into the Revised Statutes as §§ 2011, 2016, 2021, 2022, 5522. They were attacked

as unconstitutional in *Ex parte Siebold*, 100 U. S. 371, and were sustained as an exertion of the authority of Congress to pass laws for regulating and superintending such elections and for securing their purity—without suggestion that the registration of voters was not, for practical purposes, a part of the election itself and subject to regulation as such. Yet, in point of causation, identification of voters is related to the election no more closely than is the naming of candidates.

It is said that if "the manner of holding elections" had been understood in a sense to include the nominating procedure, ratification of the Constitution by the state conventions could not have been secured. I do not see how this can be confidently asserted, in view of the fact that, by the very hypothesis, the conventions ratified a specific provision for regulating the only manner of holding elections with which they were familiar—dealt with the entire subject without limitation. Mr. Justice Story, in rehearsing the objections, and the reasoning by which they were met, with citations from the debates and from the Federalist, refers to no objection that would be more cogent, supposing the regulation were extended to nominating procedure, than it would be if the regulation were confined to the ultimate election. Story Const., §§ 814–827. The sufficient answer to all objections was found in Hamilton's "plain proposition, that *every government ought to contain in itself the means of its own preservation.*" Federalist, No. 59.

What was said, in No. 60 of the Federalist, about the authority of the national government being *restricted* to the regulation of the times, the places, and the manner of elections, was in answer to a criticism that the national power over the subject "might be employed in such a manner as to promote the election of some favorite class of men in exclusion of others," as by discriminating "between the different departments of industry, or between

the different kinds of property, or between the different degrees of property"; or by a leaning "in favor of the landed interest, or the moneyed interest, or the mercantile interest, or the manufacturing interest"; and it was to support his contention that there was "no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect, or be elected," which formed no part of the power to be conferred upon the national government, that Hamilton proceeded to say that its authority would be "expressly restricted to the regulation of the *times*, the *places*, and the *manner* of elections." This authority would be as much restricted, in the sense there intended, if "the manner of elections " were construed to include all the processes of election from first to last. The restriction arose from the express qualifications prescribed for members of House and Senate, and for those who were to choose them; subject to which all regulation of preliminary, as well as of final, steps in the election necessarily would have to proceed.

In support of a narrow construction of the power of Congress to regulate "the manner of elections " of its membership, it is said there is a check against corruption and kindred evils affecting the nominating procedure, in the authority of each House to judge of the elections, returns, and qualifications of its own members; the suggestion being that if—to take a clear case—it appeared that one chosen to the Senate had secured his election through bribery and corruption at the nominating primary, he might be refused admittance. Obviously, this amounts to a concession that the primary and the definitive election, whose legal separateness is insisted upon, are essentially but parts of a single process; else how could the conduct of a candidate with reference to the primary have legitimate bearing upon the question of his election as Senator? But the suggestion involves a fundamental

error of reasoning. The power to judge of the elections and qualifications of its members, inhering in each House by virtue of § 5 of Art. I, is an important power, essential in our system to the proper organization of an elective body of representatives. But it is a power to *judge*, to determine upon reasonable consideration of pertinent matters of fact according to established principles and rules of law; not to pass an arbitrary edict of exclusion. And I am unable to see how, in right reason, it can be held that one of the Houses of Congress, in the just exercise of its power, may exclude an elected member for securing by bribery his nomination at the primary, if the regulation by law of his conduct at the primary is beyond the constitutional power of Congress itself. Moreover, the power of each House, even if it might rightfully be applied to exclude a member in the case suggested, is not an adequate check upon bribery, corruption, and other irregularities in the primary elections. It can impose no penal consequences upon the offender; when affirmatively exercised it leaves the constituency for the time without proper representation; it may exclude one improperly elected, but furnishes no rule for the future by which the selection of a fit representative may be assured; and it is exerted at the will of but a single House, not by Congress as a law-making body.

But if I am wrong thus far—if the word "elections" in Art. I, § 4, of the Constitution must be narrowly confined to the single and definitive step described as an election at the time that instrument was adopted—nevertheless it seems to me too clear for discussion that primary elections and nominating conventions are so closely related to the final election, and their proper regulation so essential to effective regulation of the latter, so vital to representative government, that power to regulate them is within the general authority of Congress. It is matter of common knowledge that the great mass of

the American electorate is grouped into political parties, to one or the other of which voters adhere with tenacity, due to their divergent views on questions of public policy, their interests, their environment, and various other influences, sentimental and historical. So strong with the great majority of voters are party associations, so potent the party slogan, so effective the party organization, that the likelihood of a candidate succeeding in an election without a party nomination is practically negligible. As a result, every voter comes to the polls on the day of the general election confined in his choice to those few candidates who have received party nominations, and constrained to consider their eligibility, in point of personal fitness, as affected by their party associations and their obligation to pursue more or less definite lines of policy, with which the voter may or may not agree. As a practical matter, the ultimate choice of the mass of voters is predetermined when the nominations have been made. Hence, the authority of Congress to regulate the primary elections and nominating conventions arises, of necessity, not from any indefinite or implied grant of power, but from one clearly expressed in the Constitution itself (Art. I, § 8, cl. 18)—"To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof." This is the power preservative of all others, and essential for adding vitality to the framework of the Government. Among the primary powers to be carried into effect is the power to legislate through a Congress consisting of a Senate and House of Representatives chosen by the people—in short, the power to maintain a law-making body representative in its character. Another is the specific power to regulate the "manner of holding elections for Senators and Representatives," conferred by § 4 of the first Article; and if this does not in

literal terms extend to nominating proceedings intimately related to the election itself, it certainly does not in terms or by implication exclude federal control of those proceedings. From a grant to the States of power to regulate the principal matter, expressly made subject to revision and alteration by the Congress, it is impossible to imply a grant to the States of regulatory authority over accessory matters exclusive of the Congress. And it is obvious that if clause 18 adds nothing to the content of the other express powers, when these are literally interpreted, it has no efficacy whatever and must be treated as surplusage. It has not, heretofore, been so regarded. The subject was exhaustively treated by Chief Justice Marshall, speaking for the court in the great case already referred to, *McCulloch* v. *Maryland*, 4 Wheat. 316, 411–424, where he pointed out, pp. 419, 420: "1st. The clause is placed among the powers of Congress, not among the limitations on those powers. 2nd. Its terms purport to enlarge, not to diminish the powers vested in the government. It purports to be an additional power, not a restriction on those already granted." According to the conclusive reasoning adopted in that case, whatever meaning may be attributed to § 4 of Art. I, there is added by clause 18 of § 8 everything necessary or proper for carrying it into execution—which means, into practical and complete effect.

The passage of the act under consideration amounts to a determination by the law-making body that the regulation of primary elections and nominating conventions is necessary if the Senate and House of Representatives are to be, in a full and proper sense, representative of the people. Not only is this true of those cases referred to in the report of the Senate Committee (Senate Rept. No. 78, 62d Cong., 1st sess., p. 2) where the parties are so unequally divided that a nomination by the majority party is equivalent to election; but it is true in every case

to the extent that the nominating processes virtually eliminate from consideration by the electors all eligible candidates except the few—two or three, perhaps—who succeed in receiving party nominations. Sinister influences exerted upon the primaries inevitably have their effect upon the ultimate election—are employed for no other reason. To safeguard the final elections while leaving the proceedings for proposing candidates unregulated, is to postpone regulation until it is comparatively futile. And Congress might well conclude that, if the nominating procedure were to be left open to fraud, bribery, and corruption, or subject to the more insidious but (in the opinion of Congress) nevertheless harmful influences resulting from an unlimited expenditure of money in paid propaganda and other purchased campaign activities, representative government would be endangered.

The question of the authority of Congress to determine that laws regulating primary elections are "necessary and proper for carrying into execution" the other powers specified, admits of but one answer—the same given by Chief Justice Marshall in the memorable case last cited (4 Wheat. 421): "We think the sound construction of the Constitution must allow to the national legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. *Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.*"

This principle has been consistently adhered to and liberally applied from that day until this. Among a multitude of illustrative cases that might be cited, some

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recent notable, but not exceptional, ones may be instanced: *Second Employers' Liability Cases*, 223 U. S. 1, 49, holding that the power of Congress to regulate commerce among the States brings within its authority the relations between common carriers by rail and their employees engaged in such commerce; *Houston, East & West Texas Ry. Co.* v. *United States*, 234 U. S. 342, 350, 355, holding that the same power authorizes Congress to regulate rates of transportation in the internal commerce of a State, to the extent of preventing injurious discrimination against the movement of traffic from State to State; *Wilson* v. *New*, 243 U. S. 332, 353, holding that the power over interstate commerce extends to regulating the wages of the employees of common carriers engaged therein; *Selective Draft Law Cases*, 245 U. S. 366, 377, *et seq.*, sustaining an act imposing involuntary military duty upon the citizen as "necessary and proper for carrying into execution" the power to declare war, raise and support armies, and make rules for the government and regulation of the land and naval forces; *United States* v. *Ferger*, 250 U. S. 199, 205, upholding the authority of Congress to prohibit and punish the fraudulent making of spurious interstate bills of lading even in the absence of any actual or contemplated movement of commerce from State to State; *Hamilton* v. *Kentucky Distilleries Co.*, 251 U. S. 146, 155, 163, sustaining war time prohibition of the sale of distilled spirits for beverage purposes as a measure necessary and proper for carrying into execution the war power; *Jacob Ruppert* v. *Caffey*, 251 U. S. 264, 282, 299–301, sustaining an act prohibiting the manufacture and sale of non-intoxicating beer as "necessary and proper" to render effective a prohibition against intoxicants; *First National Bank* v. *Union Trust Co.*, 244 U. S. 416, 419, sustaining an act conferring upon national banks powers not inherently federal but deemed appropriate to enable such banks to compete with state banks having

like powers; and *Smith* v. *Kansas City Title & Trust Co.*, 255 U. S. 180, sustaining an act establishing federal land banks and joint stock land banks having broad powers not national in their character, but deemed by Congress to be reasonably appropriate for performing certain limited fiscal functions in aid of the national treasury.

It would be tragic if that provision of the Constitution which has proved the sure defense of every outpost of national power should fail to safeguard the very foundation of the citadel.

But its function in preserving our representative government has long been recognized. In *Ex parte Yarbrough*, 110 U. S. 651, where the question was as to the constitutionality of §§ 5508 and 5520, Rev. Stats.—the question having arisen upon an indictment for a conspiracy to intimidate a citizen of African descent in the exercise of his right to vote for a member of Congress—the court, by Mr. Justice Miller, said (p. 657): "That a government whose essential character is republican, whose executive head and legislative body are both elective, whose most numerous and powerful branch of the legislature is elected by the people directly [now true of both branches], has no power by appropriate laws to secure this election from the influence of violence, of corruption, and of fraud, is a proposition so startling as to arrest attention and demand the gravest consideration. If this government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the general government, it must have the power to protect the elections on which its existence depends from violence and corruption. If it has not this power it is left helpless before the two great natural and historical enemies of all republics, open violence and insidious corruption. The proposition that it has no such power is supported by the old argument, often heard, often repeated, and in this court never assented to, that

when a question of the power of Congress arises the advocate of the power must be able to place his finger on words which expressly grant it. . . . It destroys at one blow, in construing the Constitution of the United States, the doctrine universally applied to all instruments of writing, that what is implied is as much a part of the instrument as what is expressed. This principle, in its application to the Constitution of the United States, more than to almost any other writing, is a necessity, by reason of the inherent inability to put into words all derivative powers—a difficulty which the instrument itself recognizes by conferring on Congress the authority to pass all laws necessary and proper to carry into execution the powers expressly granted and all other powers vested in the government or any branch of it by the Constitution. Article I, sec. 8, clause 18."

I conclude that it is free from doubt that the Congress has power under the Constitution to regulate the conduct of primary elections and nominating conventions held for choosing candidates to be voted for in general elections for Representatives and Senators in Congress, and that the provisions of the Act of August 19, 1911, 37 Stat. 26–28, in that behalf are valid.

Since the majority of the court hold that the act is invalid, it would serve no useful purpose to spend time in discussing those assignments of error that relate to the conduct of the trial. It may be said, however, that, in my opinion, the trial court did not err in refusing to direct a verdict for the defendants for want of evidence of the alleged conspiracy; nor in instructing the jury that the prohibition of the statute against the expenditure and use of money by a candidate beyond the specified limit is not confined to his own money, but extends to the expenditure or use of excessive sums of money by him, from whatever source and from whomsoever derived; nor in instructing them that in order to warrant a ver-

dict of guilty upon an indictment for conspiracy it was not necessary that the Government should show that defendants knew that some statute forbade the acts they were contemplating, but only to show an agreement to do acts constituting a violation of the statute; their knowledge of the law being presumed.

I find prejudicial error, however, in that part of the charge which assumed to define the extent to which a candidate must participate in expenditures beyond the amount limited in order that he may be held to have violated the prohibition—an instruction vitally important because it was largely upon overt acts supposed to have been done in carrying out the alleged conspiracy that the Government relied to prove the making of the conspiracy and its character, and because, unless the purposes of defendants involved a violation of the Corrupt Practices Act, they were not guilty of a conspiracy to commit an "offense against the United States" within the meaning of § 37, Criminal Code.

The instruction upon this topic, excepted to and assigned for error, was as follows: "The phrase which constitutes the prohibition against the candidate 'Causing to be given, contributed, expended or used' excessive sums of money, is not limited and not confined to expenditures and use of money made directly and personally by himself. This prohibition extends to the expenditure and use of excessive sums of money in which the candidate actively participates, or assists, or advises, or directs, or induces, or procures. The prohibition extends not only to the expenditure and use of excessive sums of money by the candidate directly and personally, but to such use and expenditure through his agency, or procurement, or assistance. To constitute a violation of this statute knowledge of the expenditure and use of excessive sums of money on the part of the candidate is not sufficient; neither is it sufficient to constitute a violation of this

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statute that the candidate merely acquiesces in such expenditures and use. But it is sufficient to constitute a violation of this statute if the candidate actively participates in doing the things which occasion such expenditures and use of money and so actively participates with knowledge that the money is being expended and used. To apply these rules to this case: If you are satisfied from the evidence that the defendant, Truman H. Newberry, at or about the time that he became a candidate for United States Senator was informed and knew that his compaign for the nomination and election would require the expenditure and use of more money than is permitted by law and with such knowledge became a candidate, and thereafter by advice, by conduct, by his acts, by his direction, by his counsel, or by his procurement he actively participated and took part in the expenditure and use of an excessive sum of money, of an unlawful sum of money, you will be warranted in finding that he did violate this statute known as the Corrupt Practices Act."

However this may be regarded when considered in the abstract, the difficulty with it, when viewed in connection with the evidence in the case to which the jury was called upon to apply it, is that it permitted and perhaps encouraged the jury to find the defendants guilty of a conspiracy to violate the Corrupt Practices Act if they merely contemplated a campaign requiring the expenditure of money beyond the statutory limit, even though Mr. Newberry, the candidate, had not, and it was not contemplated that he should have, any part in causing or procuring such expenditure beyond his mere standing voluntarily as a candidate and participating in the campaign with knowledge that moneys contributed and expended by others without his participation were to be expended.

The language of the Corrupt Practices Act (37 Stat. 28) is: "No candidate . . . shall give, contribute, ex-

pend, use, or promise, or cause to be given, contributed, expended, used, or promised," etc. A reading of the entire act makes it plain that Congress did not intend to limit spontaneous contributions of money by others than a candidate, nor expenditures of such money except as he should participate therein. Of course, it does not mean that he must be alone in expending or causing to be expended the excessive sums of money; if he does it through an agent or agents, or through associates who stand in the position of agents, no doubt he is guilty; *qui facit per alium facit per se;* but unless he is an offender as a principal there is no offense. Section 332, Criminal Code, declares: "Whoever directly commits any act constituting an offense defined in any law of the United States, or aids, abets, counsels, commands, induces, or procures its commission, is a principal." Clearly this makes anyone who abets a candidate in expending or causing to be expended excessive sums a principal offender; but it cannot change the definition of the offense itself as contained in the Corrupt Practices Act, so as to make a candidate a principal offender unless he directly commits the offense denounced. Spontaneous expenditures by others being without the scope of the prohibition, neither he nor anybody else can be held criminally responsible for merely abetting such expenditures.

It follows that one's entry upon a candidacy for nomination and election as a Senator with knowledge that such candidacy will come to naught unless supported by expenditure of money beyond the specified limit, is not within the inhibition of the act unless it is contemplated that the candidate shall have a part in procuring the excessive expenditures beyond the effect of his mere candidacy in evoking spontaneous contributions and expenditures by his supporters; and that his remaining in the field and participating in the ordinary activities of the campaign with knowledge that such activities furnish in

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a general sense the "occasion" for the expenditure is not to be regarded as a "causing" by the candidate of such expenditure within the meaning of the statute.

The state of the evidence made it important that, in connection with that portion of the charge above quoted, the jury should be cautioned that unless it was a part of defendants' plan that Mr. Newberry should actually participate in giving, contributing, expending, using, or promising, or causing to be given, contributed, expended, used, or promised moneys in excess of the limited amount —either himself or through others as his agents—his mere participation in the activities of the campaign, even with knowledge that moneys spontaneously contributed and expended by others, without his agency, procurement, or assistance, were to be or were being expended, would not of itself amount to his causing such excessive expenditure. The effect of the instruction that was given may well have been to convey to the jury the view that Mr. Newberry's conduct in becoming and remaining a candidate with knowledge that spontaneous contributions and expenditures of money by his supporters would exceed the statutory limit, and his active participation in the campaign, were necessarily equivalent to an active participation by him in causing the expenditure and use of an excessive sum of money, and that a combination among defendants having for its object Mr. Newberry's participation in a campaign where money in excess of the prescribed limit was to be expended, even without his participation in the contribution or expenditure of such money, amounted to a conspiracy on their part to commit an offense against the act.

For error in the instructions in this particular the judgment should be reversed, with directions for a new trial.

MR. JUSTICE BRANDEIS and MR. JUSTICE CLARKE concur in this opinion.